
Appeal Decision

Site visit made on 9 December 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2020

Appeal Ref: APP/J9497/W/19/3236517

The Chalet, Belstone, Okehampton, Devon EX20 1QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Justin Davies against the decision of Dartmoor National Park Authority.
 - The application Ref 0061/19, dated 24 July 2019, was refused by notice dated 2 April 2019.
 - The development proposed is removal of existing chalet and construction of timber replacement.
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Decision

1. The appeal is allowed and planning permission is granted for removal of existing chalet and construction of timber replacement at The Chalet, Belstone, Okehampton, Devon EX20 1QZ in accordance with the terms of the application, Ref 0061/19, dated 24 July 2019, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Justin Davies against Dartmoor National Park Authority. This application is the subject of a separate Decision.

Main Issue

3. Whether the site is suitable for a dwelling, having regard to the policies of the development plan and, if not, whether there are any exceptional circumstances that would justify the development.

Reasons

4. The spatial development strategy is set out in Policy COR2 of the Dartmoor National Park Authority Local Development Framework Core Strategy Development Plan Document 2006 – 2026 (adopted 2008) (the Core Strategy). Belstone is defined as a Rural Settlement, where small scale development serving the needs of the parish is acceptable. However, the appeal site lies in a countryside location, about 1km outside the village. Outside Rural Settlements, Policy COR15 of the Core Strategy dictates that housing development will be restricted to that serving the proven needs of agriculture, forestry and other rural business, or appropriate conversions of existing buildings for affordable housing.

5. Policy DMD23 of the Dartmoor National Park Authority Development Management and Delivery Development Plan Document (adopted 2013) (the DM DPD) places similar restrictions on proposals for new dwellings, but it also makes provision for low-impact development that accords with Policy DMD30. It is not argued that the appeal proposal would meet any of the exceptional criteria in Policies COR2, COR15 or DMD23, so a proposal for a new dwelling on the appeal site would be contrary to the policies of the development plan, unless there were material planning considerations that indicate otherwise.
6. Policy DMD27 of the DM DPD makes provision for replacement dwellings in countryside locations. Subject to meeting the criteria set out in this policy, the replacement of an existing dwelling on the site would not, therefore, be contrary to the development plan. The existing building on the site benefits from a Certificate of Lawful Development (CLD) for "residential use of a chalet" granted in 2018. In granting this CLD, the Authority was satisfied that there had been a use of the building for residential purposes for a continuous period of 10 years prior to the application. However, as it was not satisfied that the building had all the necessary facilities for day-to-day living, and due to its appearance and limited size, the Authority refused to issue a CLD for "use as a C3 dwellinghouse".
7. The appellants argue that, as the CLD confirms that the use of the chalet for residential purposes is lawful, it could be permanently occupied. Furthermore, it is contended that internal works could be carried out to the building without planning permission, to provide more comfortable living space to allow for such permanent occupancy. It is therefore claimed that there is a fallback position of a permanent dwelling on the site that should be considered. Whether or not the building could be lawfully altered and used as a permanent dwelling is not a matter for me to determine in the context of an appeal made under Section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply for a further CLD under Section 192 of the Act. However, it is already clear that the building itself is lawful, as is its existing use for holiday accommodation, and this is a material consideration.
8. Despite the case made by the appellant that the chalet could be used for permanent residential accommodation, the planning application did not expressly seek consent for a C3 dwellinghouse to replace it. The description of the development that I have adopted in the banner heading is taken from the appeal form. The Design and Access Statement that accompanied the application made it clear that the intention was to maintain the current use of the site as a family holiday destination. It also states that the proposed chalet would have an earth closet and would have no power supply or waste disposal. Although greater than that of the existing chalet, the proposed internal floorspace would only be about 30 sq. m. The appellant has not objected to the imposition of a condition limiting the use of the building to holiday accommodation. Bearing all of these factors in mind, I consider that it is appropriate to consider the proposal on the basis that it is for a replacement of the chalet, and its lawful use, rather than a C3 dwellinghouse.
9. Policy DM44 of the DM DPD allows for tourism development that replaces existing substandard holiday units, where it would lead to an improvement in the character and appearance of the locality. The existing chalet is not of a high standard, having been constructed almost 100 years ago. The proposed building would be much better insulated, and it would be protected from damp

- ground by virtue of being constructed on steel legs. The existing chalet lies in Flood Zone 3, whereas the replacement building would be located on higher ground, outside any area at risk of flooding. Consequently, the replacement building would provide a higher standard of holiday accommodation.
10. The existing chalet has a red-painted roof and turquoise walls. It is located very close to the river, with no intervening screening. It is, therefore, very visible and somewhat incongruous when viewed from the high ground to the east. Although the proposed replacement building would be larger, and on higher ground, it would be set behind evergreen foliage, which could be retained and reinforced through the imposition of a landscaping condition. A subdued finish to the proposed timber walls and metal roof could also be secured through a planning condition. As a result, I concur with the view of the Authority's Landscape Officer, that the building would be less visible than the existing chalet. Consequently, the proposal would result in an improvement to the character and appearance of the area.
11. For the reasons given above, I have concluded that the proposal is for a replacement of the existing chalet and its lawful use, rather than the provision of a new dwelling. I therefore find there to be no conflict with Policies COR1, COR2 and COR15 of the Core Strategy, or Policy DMD23 of the DM DPD, which seek to limit new residential development in non-accessible locations outside settlements. I also conclude that the development would accord with Policy COR19 of the Core Strategy and Policies DMD1b, DMD3, DMD5 and DMD44 of the DM DPD. These policies seek to maintain the natural beauty and landscape quality of the National Park, and to ensure that the replacement of substandard holiday units leads to an improvement in the character and appearance of the locality.

Conditions

12. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans, as this provides certainty. The council has submitted a schedule of suggested conditions to cover other matters. I have considered these against the advice in the Planning Practice Guidance. Where I have agreed that the conditions are necessary, I have altered some of them, in the interests of clarity and precision, to better reflect the guidance.
13. As the proposed external materials and finishes are not identified on the plans, a condition is necessary to ensure that details are submitted for approval. As external door and window materials can be controlled through this condition, I see no justification for a separate one relating to these features. A scheme of landscaping is also necessary, to ensure that the replacement chalet is successfully assimilated into its surroundings.
14. As the proposed building is only acceptable as a replacement for the chalet presently on the site, a condition is necessary to ensure that the existing building is removed. It is also necessary to ensure that the replacement building is only occupied for the same lawful purposes as the chalet it replaces. The existing CLD does not place any restriction on the length of time that any person can use the chalet for holiday purposes. I have not, therefore, included the limitations on individual occupancy as suggested by the authority. The more simply worded condition that I have used would adequately prevent use other than for holiday purposes and would be enforceable.

15. I have considered this appeal on the basis of the proposed building being a replacement for the existing chalet and its lawful use, rather than as a proposal for a C3 dwellinghouse. This being the case, the resultant building would not qualify for the permitted development rights conveyed by Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, the effect of the CLD is a matter of dispute between the parties. Consequently, for the avoidance of doubt, I have included a condition that prevents the future alteration or extension of the building, or the construction of any buildings within its curtilage.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 566/PR/008A, 566/PR/009, 566/PR/010A and 566/PR/011.
- 3) Development shall not proceed above Finished Floor Level until details/samples of the materials and finishes to be used in the construction of the external surfaces of the building hereby permitted, including doors and windows, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) Development shall not proceed above Finished Floor Level until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The scheme shall include proposals for the reinstatement of the land currently occupied by the existing chalet on the site. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 5) The building hereby permitted shall not be occupied until the existing chalet, subject of the Certificate of Lawful Use or Development granted under reference 0345/18, has been demolished and the resultant materials have been permanently removed from the site.

- 6) The building hereby permitted shall not be occupied other than as holiday accommodation and shall not be occupied as a person's sole or main place of residence.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no material alterations to the external appearance of the building shall be carried out and no extension, building, enclosure, structure, erection, hard surface, swimming or other pool shall be constructed or erected in the curtilage of the building hereby permitted, and no windows or roof lights other than those expressly authorised by this permission shall be installed.