



Appeal Decisions

Site Visit made on 15 December 2020

By Mr A Spencer-Peet BSc.(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 30 December 2020

Appeal A, APP/J9497/D/20/3259475

Apple Barn, Elliotts Hill, Buckland in Moor, Ashburton, Newton Abbot, TQ13 7HP

- 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 Terence Andrew against the decision of Dartmoor National Park Authority.
 - The application Ref 0240/20, dated 12 May 2020, was refused by notice dated 7 July 2020.
 - The development proposed is the erection of storm protective porch and combined sun room.
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Appeal B, APP/J9497/D/20/3259829

Apple Barn, Elliotts Hill, Ashburton, TQ13 7HP

- 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 Terence Andrew against the decision of Dartmoor National Park Authority.
 - The application Ref 0343/20, dated 21 July 2020, was refused by notice dated 14 September 2020.
 - The development proposed is the erection of storm protective porch and combined sun room.
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Decisions

Appeal A Ref: APP/J9497/D/20/3259475

1. The appeal is dismissed.

Appeal B Ref: APP/J9497/D/20/3259829

2. The appeal is allowed and planning permission is granted for the erection of storm protective porch and combined sun room at Apple Barn, Elliotts Hill, Ashburton TQ13 7HP, in accordance with the terms of the application Ref 0343/20, dated 21 July 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby approved shall in all respects accord strictly with drawing numbers: EB/HE/P01, EB/HE/P03, EB/HE/SK02, EB/HE/P02 and EB/HESK01 received by the Local Planning Authority on 21 July 2020.

- 3) The external materials to be used in the construction of the development hereby permitted shall match those used in the existing dwelling.
- 4) The roof of the extension hereby approved shall be covered in natural slate, sample(s) of which shall be submitted to the Local Planning Authority for approval prior to the commencement of any roofing work. At all times thereafter the roof shall be maintained in the approved natural slate.
- 5) The roof of the extension hereby approved shall be covered in slate which shall be fixed by nailing only, unless otherwise previously agreed by the Local Planning Authority in writing.
- 6) Unless otherwise agreed in writing by the Local Planning Authority, all external doors and windows in the development hereby permitted, shall be of timber construction and shall at all times thereafter be retained as timber framed windows and doors.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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(s) shall be carried out and no extension, building, enclosure, structure, erection, hard surface, swimming or other pool shall be constructed or erected in or around the curtilage of the dwelling hereby permitted, and no windows or roof lights other than those expressly authorised by this permission shall be created, formed or installed, without the prior written authorisation of the Local Planning Authority.

Procedural Matters

3. As set out above, there are two appeals on this site. Both proposals are for an extension to an existing dwelling, but which differ in terms of the size and scale. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The development plan includes the Dartmoor National Park Authority (the DNPA) Core Strategy Development Plan Document (the Core Strategy) and the Dartmoor National Park Authority Development Management and Delivery Development Plan Document (the DMD). I have taken account of various other considerations including the statutory purposes of National Parks, the UK Government Vision and Circular 2010 and the Dartmoor Design Guide.

Main Issues

5. The main issues in both appeals are:
 - Whether the proposal would accord with the development plan in respect of the amount of additional habitable floorspace; and,
 - The effect of the proposal on the character and appearance of the host building and the surrounding area.

Reasons

Increase in Habitable Floorspace

6. Amongst other matters, Policy DMD24 of the DMD provides that extensions to dwellings will not be permitted where the host dwelling has the benefit of a Certificate of Lawful Use. This policy further confirms that extensions would not be permitted where their total habitable floorspace will increase the host dwelling by more than 30%, unless clear design considerations indicate otherwise.
7. The evidence before me indicates that the host building benefitted from a Certificate of Lawful Use issued by the DNPA in May 2017. Consequently, both appeal proposals would conflict with criterion (a) of Policy DMD24 of the DMD.
8. In respect of the proposed increase in habitable floorspace, both appeal schemes would result in an increase above that permitted by criterion (c) of Policy DMD24 of the DMD. Whilst I acknowledge the Appellant's submissions in this regard, it is apparent that under Appeal A the floorspace would be increased by approximately 38%, and that under Appeal B the floorspace would be increased by approximately 54%.
9. Notwithstanding the above, criterion (c) of Policy DMD24 of the DMD does permit increases in floorspace above 30% where clear design considerations indicate otherwise. In this respect, the Appellant maintains that the proposed increase is necessary in order to alleviate progressive damp problems affecting the host building.
10. However, whilst these issues are noted and even in the event that the issues concerning progressive damp problems would provide an exception to the permitted increase in floorspace described under criterion (c) of Policy DMD24 of the DMD, both appeal proposals would conflict with criterion (a) of Policy DMD24 of the DMD. Accordingly, both appeal schemes would conflict with Policy DMD24 of the DMD when taken as a whole.

Character and Appearance

11. Both appeal schemes propose a single story extension on the southern elevation of the existing dwelling, and which would replicate the host dwelling in terms of length. Both of the appeal schemes propose utilising materials which would be consistent with the appearance of the host dwelling.
12. In respect of the impact of the appeal schemes on the character and appearance of the surrounding area, both appeal schemes would be seen in the context of the existing built form at the site. By reason of the surrounding topography and given that the appeal site is predominately set down below the level of the surrounding land, the extension to the existing dwelling would not be readily perceptible from within the wider surrounding area.
13. Accordingly, in my view, neither appeal proposal would result in harm to the landscape or scenic beauty of the surrounding area and, therefore, would not be harmful to the character and appearance of the surrounding area. In these respects, both appeal proposals would comply with Policies DMD1b, DMD3 and DMD24 of the DMD and would accord with Policies COR1 and COR4 of the Core Strategy. Further in respect of Appeal B, the proposal would accord with Policy DMD5 of the DMD. Together and amongst other things, these policies

seek to ensure that development respects local distinctiveness and does not harm the character and appearance of the surrounding area.

14. Notwithstanding the above, both of the proposed extensions would result in a double pitched building which would detract from the simple agricultural appearance of the existing building and would result in additions that were not subservient to the host building in terms of overall height and scale. In these regards, both appeal proposals would be somewhat harmful to the character and appearance of the host building. Consequently, both appeal proposals would conflict with Policies DMD7 and DMD24 of the DMD and would be contrary to Policy COR4 of the Core Strategy which seek to ensure that development conserves and enhances the character of the built environment.

Other Matters

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The Appellant has drawn my attention to the application of permitted development rights in respect of both appeals, maintaining that the existing dwelling benefits from permitted development rights and that the proposals would be no more harmful than that which could be constructed under permitted development rights. As such, it has been put to me that the potential fallback position under permitted development rights is a material consideration in the determination of these appeals.
16. There is no evidence before me that indicates that permitted development rights have been removed in respect of the existing dwelling and I have no reason to doubt that the potential fallback position under permitted development rights would not be implemented in the event that these appeals were dismissed. In this regard, I will consider each appeal proposal in turn as below.
17. In respect of Appeal A, it is noted that the overall roof ridge line height would be greater than that permitted under the development rights. As noted above, the proposed height of the extension would result in harm to the character and appearance of the host building. In my view, given the additional height proposed, the appeal scheme would be more harmful to the character and appearance of the host building than that which could be constructed under permitted development rights. I therefore attach limited weight to the potential fallback position under Appeal A, which would not outweigh the conflict with the development plan described above. In light of these reasons, I conclude that Appeal A should be dismissed.
18. However, in respect of Appeal B it is noted that the proposed extension would accord with the dimensions of development as provided under the permitted development rights. In this regard, whilst it is noted above that the proposal would result in some harm to the character and appearance of the host building and would conflict with criterion (a) of Policy DMD24 of the DMD, given that the scale of the extension that could be constructed under permitted development rights, I conclude that the appeal proposal would be no more harmful than the fallback position. I therefore give the fallback position significant weight such that it outweighs the conflict that I have found with regards to the character and appearance of the host building and the conflict with the development plan

as described above, with regards to Appeal B. I therefore conclude that Appeal B should be allowed.

Conditions

19. The DNPA has, within the appeal questionnaire, suggested standard conditions relating to the timescale of implementation, matching materials and the requirement to carry out the development in accordance with the approved plans. These conditions are either statutory in nature or reasonable and necessary in the interests of certainty and I will impose all those suggested with the standard wording.
20. I have also considered the further conditions as suggested by the DNPA. In the interests of protecting the character and appearance of the host building and the surrounding area, it is reasonable to include conditions requiring that frames to external openings be of timber construction, that samples of roofing materials be provided and further that the roofing materials are to be fixed by nailing only to reflect and respect local distinctiveness. Furthermore, given the location of the appeal site in a sensitive area, it is also reasonable to include a condition which limits further alteration of the building without prior written authorisation of the DNPA.

Conclusions

Appeal A

21. The proposal would conflict with the development plan when taken as a whole and there are no other considerations before me which would lead me to conclude otherwise. For the reasons given above, the appeal should be dismissed.

Appeal B

22. Whilst the proposal would conflict with the development plan when taken as a whole, the potential fallback position weighs significantly in favour of the appeal proposal such that it outweighs the conflict with the development plan. Accordingly, the appeal should be allowed.

A Spencer-Peet

INSPECTOR