



Appeal Decision

Site visit made on 25 January 2021

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 17th March 2021

Appeal Ref: APP/X1118/W/20/3252563

Mockham Down House, Mockham Down Gate to Kimbland Cross, Bratton Fleming, Barnstaple EX32 7LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Geoff Savage against the decision of North Devon District Council ('NDDC').
 - The application Ref 66068, dated 30 December 2018, related to the Council's notice dated 18 November 2019.
 - The development proposed is described on the application form as 'erection of 2 buildings. Building 1 – stable block including 2 stables, 1 hay barn, 1 tack room. Building 2 – garage/ workshop.'
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Decision

1. The appeal is allowed and planning permission is granted for the development described in the banner heading above at Mockham Down House, Mockham Down Gate to Kimbland Cross, Bratton Fleming, Barnstaple EX32 7LQ in accordance with the terms of the application Ref 66068, dated 30 December 2018, subject to the conditions below.

Application for costs

2. The appellants have made an application for an award of costs against NDDC which is the subject of a separate decision.

Preliminary matters

3. The Planning Practice Guidance ('PPG') sets out that, in exceptional circumstances, it may be appropriate for a local planning authority to use conditions in order to grant permission for only part of the development for which planning permission is sought.¹ In respect of application Ref 66068 NDDC's decision notice of 18 November 2019 sets out limitations via conditions such that their approval relates only to the garage or workshop element of the development for which permission is sought.
4. That building, yet to be constructed, is referred to in the information before me as 'building 2'. It is proposed to be located closer to the existing access to Mockham Down House than the stables. 'Building 1', the stables, has been built. It was in use at the time of my site visit. Permission for the development is therefore sought, in part, retrospectively. Section 79(1)(b) of the Town and

¹ Reference ID: 21a-013-20140306.

Country Planning Act 1990 as amended enables me to deal with the application as if made to me 'in the first instance'. I am therefore not bound only to assess the acceptability of building 1, a matter to which I will return.

Planning context

Landscape

5. The appeal site is an irregular parcel of hillside land within the same ownership as Mockham Down House. Access is via a track spurring off the unnamed road to the west, the latter following a contour of the landform. Access is initially shared, albeit that the track subsequently splits to serve some land to the north along with Mockham Down House. The landscape here is principally characterised by a rolling patchwork of fields cut by streams and patches of woodland, reflecting a complex overlay of historic apportionment and re-organisation. There is extensive evidence of Bronze and Iron age civilisation in the surrounding area.
6. The site lies outside, albeit close to, the nearest boundary of Exmoor National Park (which extends close to the A399 curving around the hill of which the appeal site is part to the north and east). In pre-application advice of 26 October 2018,² NDDC noted that the site fell within an area of Great Landscape Value ('AGLV') pursuant to policy ENV6 of the North Devon Local Plan (adopted originally on 6 July 2006). However shortly afterwards, on 29 October 2018, the joint North Devon and Torridge Local Plan 2011-2031 was adopted ('JLP'), which superseded policy ENV6 (amongst other policies).³
7. NDDC's approach to ensuring proposals integrate appropriately with landscape character is now articulated in JLP policies DM08A and DM04. An area does not need to be formally designated on account of its character to be valued and afforded appropriate protection with reference to the development plan policies cited above and paragraph 170. a) of the National Planning Policy Framework ('NPPF'). Decisions must be taken in line with the development plan, unless material considerations indicate otherwise.

Location

8. In respect of building 1, NDDC's decision notice cites conflict with JLP policies ST07 and DM16. The former guides development principally towards established settlements in North Devon, whereas Mockham Down House sits on its own some distance away from the village of Brayford. However criterion (4) of JLP policy ST07 is that in the countryside development 'which is necessarily restricted to a countryside location' may be acceptable. With that in mind, JLP policy DM16 affords in-principle support to equine development in the countryside. That support is conditional on fulfilling several criteria, including that such a proposal is well related to existing buildings and designed so as to suitably integrate with its surroundings.
9. There is a distinction in the character of the locations of or proposed for buildings 1 and 2. Building 2 falls close to the driveway of Mockham Down House in an area given over principally to ornamental planting. The location of building 1 falls in a more open area of land beyond a line of mature trees,

² Ref C115387.

³ JLP appendix 1.

higher in the topography. That distinction, which appears to have existed for many years, is attested to in the appellants' supporting statement. The statement sets out how the appellants purchased Mockham Down House in 2018 along with 'a 6.5-acre field and an approximately 2-acre paddock which adjoins the property'. In that context, for convenience, I therefore refer to the development as relating to 'appeal sites'.

10. Against that background, I note that permitted development rights generally enable the construction of outbuildings incidental to the enjoyment of dwellinghouses.⁴ On a plain reading there is nothing to indicate that building 2, the proposed 'garage/ workshop', would be other than incidental to domestic use of Mockham Down House and the maintenance of its grounds.⁵ In respect of building 2 the plans show a relatively lightweight structure of standard form, the erection of which would likely entail little by way of groundworks.

Heritage

11. At the crest of the hill of which the appeal sites are part falls the 'Camp on Mockham Down', a scheduled monument (list entry No. 1002534, simply 'the Camp').⁶ The list entry identifies the Camp as a slight univallate hillfort, i.e. a single walled bund around a central depression, likely created at the transition of the Bronze to Iron Age (around the eighth to fifth centuries BC). At its nearest the appellants state that building 1 falls some 62 metres away from the Camp. That figure is not in dispute. NDDC describe the appeal site as falling within an area of archaeological potential, reflecting the likelihood of architectural remains being present here on account of the history to the area. The appellants' Heritage Impact Assessment ('HIA') considers effects in that respect.
12. In summary, amongst other things and with different emphases, JLP policies DM04, DM07, DM08A and ST15 set out how proposals should be designed so as to integrate sensitively with the historic and natural environment. They also variously set out how any harm should be both minimised and justified. Similarly NPPF paragraphs 184 and 193 set out how great weight should be given to the conservation of designated heritage assets, irreplaceable resources, relative to their significance. NPPF paragraph 194 further explains how any harm to, or loss of, significance should require 'clear and convincing justification'. Harm to significance may, in theory, arise 'indirectly', i.e. by virtue to changes in the setting of a designated heritage asset, namely the surroundings in which it is experienced.

Main issue

13. Against the background above, the main issue the effect of the development to the significance of the scheduled monument.

Reasons

Significance and setting

⁴ In circumstances set out in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

⁵ Noting the provisions of section 75(2) of the Town and Country Planning Act 1990 as amended.

⁶ Under section 1 of the Ancient Monuments and Archaeological Areas Act 1979 as amended.

14. Summarising my observations above, the Camp is now discernible as overgrown earthworks. It is a beguiling man-made intervention at a relative high point in the rolling landscape. The Landscape Character Assessment for North Devon & Torridge (November 2010, the 'LCA') identifies the site as falling within landscape character type ('LCT') '2D, Moorland Edge Slopes'.⁷
15. Amongst other features, the LCA describes LCT 2D as characterised by a sparsely populated landscape comprising principally differently-sized fields defined by traditional hedgerows with occasional wooded bands, many of which track alongside watercourses. Reference is also made to 'long distance views from hill summits', as can be obtained from the Camp looking broadly westwards, and to the presence of Bronze and Iron Age barrows and hillforts set in commanding positions.
16. In that context the significance of the Camp lies not only in its physical form and archaeological interest, the potential for it and its surroundings to hold evidence of past human activity, but is intertwined with the landscape setting in which it is experienced (visually and in broader terms of character and history). Arguably surrounding landscape character is similarly important in terms of the significance of the Camp than the potential presence of historic artefacts.

The effect of the development

17. The nature of the development, and the differences in the location of buildings 1 and 2, is summarised above. The development has introduced, and would introduce, built development in locations which are presently essentially natural, consistent with landscape character, and have some value in attesting to the historic surroundings of the Camp. Buildings 1 and 2 are also relatively substantial, the former some 3.6 by 13.2m in footprint, the latter around 6.8 by 8.9m. At the time of my site visit building 1 was partially visible from around the access off the unnamed road to the west. From that vantage point building 1 partially intervenes in a line of sight upwards towards the Camp.
18. However, as reflected in the LCS, the landscape setting of Iron and Bronze age interventions is extensive; their having been built in commanding positions for defensibility. The appeal sites represent a very small fraction of that setting. I have also noted above that the location proposed for building 2 has greater affinity with the domestic surroundings of Mockham Down House.
19. Indeed the only meaningful visual inter-relationship between building 1 and the Camp, in respect of public vantage points, is from that location. The landform means there is no visibility towards the A399 or beyond in that direction. Similarly given its set-down in the topography and the presence of intervening landscape features, there is no meaningful visibility from the nearest public right of way (Stoke Rivers Footpath No. 12).
20. Alterations to the setting of a designated heritage asset which have affected significance over time do not inherently justify allowing further change (and not all elements of the surroundings to the Camp contribute in equal measure towards significance). Nevertheless changes to the setting of the ancient

⁷ Near to areas drawn around watercourses falling within 3D 'Upland River Valleys'.

monument are relevant in terms of establishing the baseline relative to which the effect of the development should be considered.

21. With that in mind, the view of building 1 from the site access is of it within a principally domestic setting (on account of ornamental planting, hardsurfacing and boundary treatments including splayed rubblestone walls and post and rail fencing). The current nature of the appeal site there contributes in a highly limited fashion to significance, in terms of reflecting in the present the context in which the Camp would have been established, or historic landscape alterations over time.
22. Moreover, at some point relatively recently, rather than historically, a string of buildings has come into being beyond the north-eastern spur of the track referenced in paragraph 5 of this decision ('buildings to the north'). Most recently, aside from discharging conditions attached to previous approvals, NDDC granted permission for the change of use of a permitted dwelling to a holiday unit there.⁸ Plan 'G210 18 202 A' associated with that permission outlines the buildings north of the track, following an intricate planning history there.
23. Buildings to the north are, or would be, domestic in character (albeit of varying aesthetics). As a point of fact they are significantly closer to the Camp than the appeal sites in this case; at their closest they are only slightly set-back from the earthworks. Whilst I accept that they do not fall within a line of sight between the site access and the Camp, the presence of buildings to the north nevertheless reaffirms that the setting to the ancient monument has become increasingly domestic over time.
24. The appeal is supported by a Heritage Impact Assessment dated 30 May 2019 (post-dating application Ref 66068 by some time, the 'HIA'). The HIA attests to changing land reorganisation here, having historically formed part of various post-medieval estates. At some point around the turn of the twentieth century, the site falls within an area annotated on contemporaneous maps as a plantation. That historic land use is alluded to by the presence of some mature evergreen trees (in an area where deciduous trees tend to predominate). Evidently at some point during the early twentieth century the paddock in which building 1 now falls was cleared.
25. The HIA further notes that several shallow quarries are shown near the locations of the development in mapping dating from 1888. I saw how that history to the landform remains appreciable; changeable levels near Mockham Down House are evidently more substantial than would naturally occur. On the evidence before me, it appears that the track serving buildings to the north was originally created in conjunction with quarrying activities within the Camp itself (which partially eroded the embankment itself).
26. Quarrying and the planting, growth, and clearance of trees will have affected ground conditions at the appeal site over time. That is not to say that those interventions will have effaced all possibility of surviving archaeological remains. However, in a similar vein to the baseline character here reasoned

⁸ Approval Ref 72223. I note that an appeal may have been made in respect of application Ref 72055, for four holiday cottages, albeit there is as yet no outcome in that respect.

above, they are nevertheless relevant insofar as gauging the potential effect of the development in terms of archaeology.

Consideration

27. I have set out above, insofar as relevant to this appeal, that the significance of the Camp lies not only in its physical form and archaeological interest, but is also intertwined with a complex and historically overlayed landscape setting. The contribution of the surroundings in which the Camp is experienced is not limited to a certain era, as apportionment and reorganisation over time equally honestly attest to the evolution of the landscape over time. I acknowledge that the development would result in some contextual change to the setting of the ancient monument.
28. However for four reasons, in my view the effects of the development would be so limited as to have a neutral effect on significance. Firstly, the appeal sites represent a very small fraction of the setting of the Camp; they are far from visually prominent (by virtue of the surrounding landform and intervening features including hedgerows and trees). Leaf cover will further obscure visibility at certain times of year, noting that my site visit was in midwinter. For the reasons given in paragraph 19 of this decision, I disagree with the statement at paragraph 3.2.3 of the HIA that views of the hillfort are clear from 'the general vicinity'.
29. Secondly, understated and functional outbuildings are not inimical to rural landscape character (as reflected in JLP policy DM16). Whilst substantial in scale, buildings 1 and 2 are, or would be, of simple materials and form consistent with many such buildings found in similar locations. On account of the surrounding context to the appeal site as described above, they would not appear discordant or obtrusive. Building 2 is closely related to a more domestic surrounding area, and building 1 is consciously located so as to sit in the very corner of the paddock close to site access and building 2.
30. Thirdly, as noted in paragraphs 21 to 23 above, the surroundings to the Camp have become increasingly domestic over time. The buildings would be seen relative to that baseline context, rather than as incongruous interventions. Building 1 is some 62 metres distant from earthworks of the Camp, significantly greater than the nearest residential buildings to the north.
31. I acknowledge that building 1 has been built, and as such it is unclear how construction was undertaken and any associated effects on subsurface archaeological interest. That is unfortunate, and a matter touched upon in the associated costs decision. However fourthly, and axiomatically, the appeal sites and landscape here have been extensively altered since the Iron Age. In this location there has been extensive quarrying, tree planting and felling, and the use of the location of building 1 as a paddock.
32. It is reasonable to surmise that those intrusive interventions in the landscape will have reduced the potential for archaeological remains at a shallow depth to have survived. With that in mind, building 1 is a lightweight and standardised timber stable. I saw that it is set on a level slab of concrete, which appeared to have been essentially laid on top of the natural ground level rather than

substantially cut into the hillside. Accordingly its potential to have effaced historic remains is, in all likelihood, very limited.

33. That is to some extent hypothesis; what has been done has been done. However, in my view and given my reasoning in respect of its effects to the significance of the Camp, and given the broad provisions of section 70(1)(a) of the Town and Country Planning Act 1990 as amended which enable the imposition of conditions, it would be reasonable and proportionate to secure a programme of archaeological work associated with all elements of the development. Such a condition would, to my mind, strike an appropriate balance between exactitude and implications in terms of the significance of the heritage asset.⁹
34. Given the foregoing reasoning, I conclude that the development would be acceptable in respect of design, integrate appropriately with local character, and that it would preserve the setting and significance of the Camp. Notwithstanding that permission is sought in part retrospectively, the development therefore accords with the relevant provisions of JLP policies DM04, DM07, DM08A, DM16 and ST15, and relevant elements of the NPPF (including paragraphs 184 and 193).

Conclusion

35. For the above reasons, having had regard to the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions set out below.

Conditions

36. Returning to my reasoning in paragraphs 3 and 4, I have assessed the acceptability of all elements of the development set out in the banner heading above. I have therefore approached conditions in that context. As a consequence it is necessary to require commencement within the relevant statutory period.¹⁰ For certainty, and so as to ensure the development is implemented as assessed above, it is also necessary to secure compliance with the supporting plans and proposed materials (conditions 2 and 3).
37. There is no indication that either building would be used other than as ancillary to Mockham Down House. The appellants' statement sets out how the paddock is used by the appellants' daughter and her 'two horses', and further that the stables 'are only for our own private use and no commercial use is requested'. Were an alternative use to arise that may result in differential effects to those assessed above.¹¹ Within the terms in which the development has advanced and assessed, condition 4 is therefore necessary and reasonable.
38. There is no lighting shown on the supporting plans, nor reference to artificial lighting in the appellants' supporting statement. Nevertheless, artificial lighting has the potential to affect the character of an area, as recognised via JLP policy DM02(2)(d) and supporting paragraph 13.15 to it. Whilst I accept a certain level of intermittent lighting associated with operation will inevitably be needed

⁹ With regard to NPPF paragraph 197.

¹⁰ Section 91 of the Town and Country Planning Act 1990 as amended.

¹¹ Noting in particular the provisions of JLP policy DM16, criteria (c) and (d).

on occasion, condition 5 is nevertheless necessary to prevent adverse effects arising were formal provision proposed in that respect. For similar reasons, and to ensure compliance with JLP policy DM02(2)(b), condition 6 is necessary to ensure any potential adverse effects arising from surface water run-off are mitigated. Following my reasoning in paragraph 33 of this decision, condition 7 is also necessary to secure an appropriate approach to archaeological investigation, recording and reporting.

39. In imposing conditions I have had regard to the tests in relevant statute, the NPPF, and the PPG. Accordingly I have amended the wording of certain conditions proposed by the Council to ensure that they are appropriate, without altering their fundamental aims.

Thomas Bristow

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'WA3000-00-00 Issue B', 'WA3000-00-01 Issue B', 'WA3000-00-02 issue B' 'WA3000-00-03 Issue B'.
- 3) The external materials of the development hereby permitted shall be vertical timber cladding and olive green steel profile roofing, as annotated on the approved plans, and retained as such.
- 4) The development hereby permitted shall be used only as ancillary to Mockham Down House, including for private equine use, and for no other purposes.
- 5) In the eventuality that any external lighting is proposed in respect of the development hereby permitted, that shall be installed and maintained to an agreed specification (as previously submitted to, and agreed in writing by, the local planning authority).
- 6) Provision must be made for the storage, treatment and disposal for any foul drainage, or the storage of effluent or other material that may give rise to adverse run-off, so as to prevent any discharge to a well, spring, or watercourse (including dry ditches with a connection to a watercourse).
- 7) Within three months of this decision, a programme of archaeological work (to be undertaken in accordance with a written scheme of investigation) shall have been submitted to the local planning authority. The programme shall include details for investigating, recording and publicising any significant archaeological remains associated with the undertaking of all elements of the development hereby permitted. The programme, as agreed to in writing by the local planning authority, shall be adhered to throughout the undertaking of the development hereby permitted and retrospectively, as necessary. A summary report of the completion of the programme and any findings shall be submitted to the local planning authority before the development hereby permitted is completed and brought into use.