



Appeal Decision

Site Visit made on 19 October 2021

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

an Inspector appointed by the Secretary of State

Decision date: 10 November 2021

Appeal Ref: APP/J9497/W/21/3277523

Edgemoor Stables, Exeter Road, South Brent TQ10 9JS

- 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 John Gardner against the decision of Dartmoor National Park Authority.
 - The application Ref 0607/20, dated 3 October 2020, was refused by notice dated 10 March 2021.
 - The development proposed is described as the erection of dwelling (Use Class C3), hotel bed and breakfast accommodation (Use Class C1), and office space (Use Class E) on site of existing stables.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. Accordingly, I have sought the views of the main parties in writing, and I have taken any relevant correspondence into consideration.
3. The development plan includes the Dartmoor National Park Authority (the NPA) Core Strategy Development Plan Document (the Core Strategy) and the NPA Development Management and Delivery Development Plan Document (the DMD). I have also taken account of other considerations including the statutory purposes of National Parks and the UK Government Vision and Circular 2010 in the determination of this appeal.

Main Issues

4. The main issues in this appeal are:
 - Whether the proposed dwelling would be in a suitable location having regard to National and Local Planning Policy,
 - Whether the proposed tourism accommodation would be in a suitable location having regard to National and Local Planning Policy; and
 - Whether the proposed office space would be in a suitable location having regard to National and Local Planning Policy.

Reasons

Site Location

5. The appeal site comprises land and buildings located within the Dartmoor National Park (the National Park) and which are accessed from the B3372 highway. The existing buildings are set back from the highway with the planning history for the site indicating that the existing buildings were used for stabling of horses. It is understood from the submissions before me that the site is no longer used for stabling, and that the existing single storey buildings are used for storage as was observed on my site visit.
6. I shall turn to consider the individual elements of the appeal scheme below. However, there is dispute between the main parties in this appeal, as to whether the appeal site is located within or outside of a settlement. In this respect, whilst I acknowledge the Appellant's submissions, the site is located some distance east of the nearest settlement at South Brent and given that the site is visually separate from South Brent and due to the physical separation of the site from that settlement by surrounding substantially sized predominately open agricultural fields, I find that the appeal site is not located within a settlement and is situated within the countryside for planning purposes.

Dwelling

7. Policy COR1 of the Core Strategy and Policy DMD1a of the DMD reflect the approach of the Framework in respect of planning for sustainable development. Policies COR2 and COR15 of the Core Strategy guide new residential development based upon a hierarchy of local centres of population and smaller rural settlements. These policies seek to ensure that new development is located such that there is access to day to day services and facilities, and in order to maintain the rural character of the area. In the countryside outside the named settlements, new residential development is to be restricted to that serving the proven need for rural enterprises, or through the conversion of rural buildings to meet identified needs for affordable housing.
8. As noted above, the appeal site is located outside of South Brent, which is described as a 'Local Centre' under Policy COR2 of the Core Strategy. Policy DMD23 of the DMD specifies the circumstances in which new residential development may take place outside of Local Centres. It provides, amongst other things, that planning permission will only be granted for a dwelling where it would be required for an agricultural holding or a rural based enterprise, where the proposed scheme comprises the conversion of an existing building to an affordable dwelling or where the proposal comprises low impact residential development. Policy DMD23 of the DMD echoes paragraph 80 of the Framework, which provides that planning policies and decisions should avoid the development of isolated homes in the countryside unless one of a number of circumstances apply.
9. The meaning of 'isolated' was addressed in *Braintree District Council v Secretary of State for Communities and Local Government & Ors* (2017) EWHC 2743 (Admin) and the subsequent Court of Appeal Judgement¹. In this regard, it was held that the term 'isolated' in relation to the Framework, should be given its ordinary objective meaning with the Court of Appeal confirming that

¹ *Braintree DC v SSCLG, Greyread Ltd and Granville Developments Ltd* [2018] EWCA Civ 610

the word 'isolated' in the phrase 'isolated homes in the countryside' simply connotes a dwelling that is physically separate or remote from a settlement and that whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand.

10. In this instance, the proposed dwelling would be located outside of any designated settlement and in the open countryside of the National Park as described above. The appeal site is located some distance from South Brent, along a highway which is unlit and lacking any pedestrian footways. Whilst it is acknowledged that there are other residential and commercial properties that are accessed from the B3372 highway and from Stidston Lane, there is nevertheless very little sense that the appeal site, or buildings thereon, relate visually, physically or functionally to any other buildings. The combination of these factors leads me to find that the appeal site is somewhat isolated.
11. In terms of Policy DMD23 of the DMD, the appeal scheme does not propose the conversion of the buildings to affordable housing, nor would be considered to be a conversion in terms of Policy DMD9 of the DMD by reason of the extent of proposed rebuilding and extension of buildings at the site. The appeal scheme would not accord with the provisions of Policy DMD30 of the DMD and, consequently, would not represent low impact residential development.
12. Nonetheless, it has been put to me by the Appellant that the new dwelling would be required for a rural based enterprise. In this regard, Policy DMD23 does provide support for such dwellings. However, whilst acknowledging that the Appellant intends to turn the land into a smallholding for livestock and specialist crops, and even in the event that specialist agricultural legal and financial services would represent an enterprise that requires a countryside location, it is apparent that this policy also requires that, in such circumstances, it would need to be demonstrated that there would need to be a functional need for a rural worker to be available at most times and that the enterprise would need to show that it is currently financially sound and has a clear prospect of remaining so.
13. These requirements reflect the guidance contained within the Planning Practice Guidance with regards to housing needs of different groups. In this respect, I have not been provided with substantive evidence that supports the contention that there would be an essential need for a worker to be at the site most times. Whilst I note that concerns regarding security are raised, there is no substantive evidence before me which indicates why alternative measures such as security cameras would not provide sufficient security for the site.
14. As described above, the appeal site is located some distance from South Brent. South Brent does contain a range of services and facilities. However, it is likely that journeys to those services would be reliant on private vehicles as journeys by sustainable transport modes, especially at night and during inclement weather, would not be conducive due to the distance, the lack of footways and lack of street lighting. Whilst it is noted that the Appellant refers to a bus service passing by the site, I have not been provided with any details of that service and from my site visit it did not appear that there were any bus stops close to the site.
15. For the above reasons, the proposal would not represent an acceptable location for a new dwelling and would therefore conflict with Policies COR1, COR2 and

COR15 of the Core Strategy and Policies DMD1a, DMD9 and DMD23 of the DMD, which, amongst other things, seek to ensure that outside of settlements, development should have access by public transport, on foot or by bicycle to destinations in daily life and that housing development will be restricted to that serving the proven needs of agriculture, forestry and other essential rural businesses, and where there is a clearly established existing functional need for a worker to be readily available at most times.

Tourism Accommodation

16. For the reasons given above, the appeal site is located outside of the settlement and within the open countryside. In such circumstances, Policy DMD9 of the DMD indicates that conversion or re-use of non-residential buildings for short stay tourist accommodation will be allowed provided it relates to a historic building. This policy requirement for the re-use of existing buildings is complemented by Policy DMD44 of the DMD which lists a series of options that may allow for the provision of new tourist accommodation. Amongst other matters, outside of settlements, this includes replacement of and alterations to existing tourism accommodation, accommodation in large houses and accommodation provided as part of farm diversification.
17. The proposed tourism accommodation would partly re-use and further extend buildings which appear to have been designed as stables. The proposed changes to the existing buildings would result in structures that retained a functional appearance. Even in the event that the proposed rebuilding and alteration of the buildings at the site was considered to be a conversion, the scheme does not propose the re-use of a historic building and consequently would not gain support from Policy DMD9 of the DMD. In terms of Policy DMD44, the proposal does not replace or alter existing tourism accommodation nor would be provided as part of a farm diversification or as accommodation in a large house.
18. Policy COR21 of the Core Strategy states that development should be located so as to facilitate access to local services and reduce the need to travel, especially by car, providing for and promoting choice in transport modes. In this regard, given the above findings in respect of the accessibility of the site with regards to the proposed new dwelling and the consequent likely reliance on private vehicles, I conclude that the appeal scheme would conflict with the provisions of Policy COR21 of the Core Strategy.
19. Although many visitors to the countryside may use private vehicles, holiday units in areas which are remote from local facilities are likely to generate more journeys than holiday units in locations where shops and services are more easily accessible. As such the proposal would contribute to a pattern of development that could cause environmental harm as a result of increased car journeys and hence carbon emissions.
20. Policy COR18 of the Core Strategy provides the policy approach to employment and business opportunities. Given the above findings with regards the accessibility of the site and as the proposal would be a holiday let within buildings of functional appearance as described above, I am not satisfied that the scheme, whether it be described as 'bed and breakfast' or 'self-catering' accommodation, would be a sustainable tourism enterprise based on the intrinsic qualities of the National Park such as to meet with the relevant criteria of Policy COR18 of the Core Strategy.

21. In summary of the above, I find that the proposed tourism accommodation, at this location, would not be supported by the policies of the development plan. In this regard, the proposed tourism accommodation would conflict with Policies COR2 and COR18 of the Core Strategy and would be contrary to Policies DMD9 and DMD44 of the DMD which, amongst other things, sets the policy requirements for the re-use and conversion of rural buildings and provision of tourism accommodation. Furthermore, given the likely reliance on private motor vehicles, the proposal would also conflict with Policies COR1 and COR21 of the Core Strategy and Policy DMD1a of the DMD.

Office Space

22. Amongst other matters, Policy COR18 of the Core Strategy provides support for small scale development needed to facilitate the growth of small office and home based enterprises, at locations outside of settlements. The appeal scheme seeks to provide a small office which, the evidence before me indicates, would be used to provide specialist agricultural legal and financial services.
23. However, Policy COR2 of the Core Strategy provides that at locations such as the appeal site which is, for the reasons given above, situated outside of a settlement, development is restricted to that, amongst other things, which is necessary to meet the proven needs of farming and other enterprises with an essential requirement to locate within the countryside. This policy also provides that the principle of such development would be acceptable if it is a small scale development for the growth of an existing business or would be needed to promote National Park purposes. The evidence indicates that there is no existing business at the site, and there is no substantive evidence before me which indicates that the proposal is 'needed' to promote National Park purposes.
24. Even in the event that provision of agricultural legal services does amount to an agricultural use or related rural enterprise, criterion (iii) a) of Policy COR2 of the Core Strategy includes the requirement that there is an essential need to be located within the open countryside. In essence, it has been put to me by the Appellant that the business is required to be located at the appeal site due to the lack of available commercial space within South Brent and the surrounding area, and by reason of the desire of clients of such a business not to be seen entering or exiting its premises.
25. In these respects, whilst I acknowledge the Appellant's submissions and views and that some clients may wish to be, as put to me by the Appellant, "away from prying eyes", in my mind this would not equate to essential need to be located within the countryside. Furthermore, and in respect of the availability and suitability of space within South Brent and the surrounding area, I have not been provided with any evidence that supports that contention beyond a general assertion. Consequently, and in light of all the evidence and submissions before me, I am not satisfied that it has been demonstrated that there is an essential need for the enterprise to be located within the countryside.
26. As described above, Policy COR21 of the Core Strategy provides that development should be located so as to facilitate access to local services and reduce the need to travel, especially by car, providing for and promoting choice in transport modes. In this regard, given the above findings in respect of the

accessibility of the site and the consequent likely reliance on private vehicles, I conclude that the appeal scheme would conflict with the provisions of Policy COR21 of the Core Strategy.

27. With regards to the provision of office space, whilst the principle of the scheme would appear to broadly accord with criterion (a) of Policy COR18 of the Core Strategy, for the reasons given above the scheme would conflict with Policy COR2 of the Core Strategy. Furthermore, given the likely reliance on private motor vehicles, the proposal would also conflict with Policies COR1 and COR21 of the Core Strategy and Policy DMD1a of the DMD. The proposal would not gain support from Policy DMD9 with regards to the conversion or re-use of a historic building.
28. It is acknowledged that the NPA's reasons for refusal, in respect of the office space, cites Policy COR3 of the Core Strategy. This policy requires that development conserve and enhance the characteristic landscapes and features of the National Park. In this regard, whilst it noted that the NPA's landscape officer raised concerns regarding how the roadside hedgerow would be translocated, such a matter could be controlled by condition. However, the officer raised no objections to the proposal on landscape grounds and in the absence of evidence to indicate otherwise, I do not find that the proposed office space would conflict with the provisions of Policy COR3 of the Core Strategy.
29. The Appellant has referred to a recent planning permission for the construction of an equine veterinary surgery to be located on the opposite side of the B3372 highway from the appeal site and outside of South Brent. However, I do not have full details of the circumstances that led to that scheme being accepted and so cannot be sure that the circumstances, policy requirements or material considerations represent a direct parallel to the appeal proposal before me. I have, in any event, determined this appeal on its own merits.
30. Further to the above, the Appellant has put it to me that they hold sufficient evidence to allow for a lawful development certificate in relation to commercial use at the appeal site. Nonetheless, no planning permission or certificate of lawfulness for commercial use at the site has been presented. There is no substantive evidence before me to indicate that this represents a fallback position at the site and, accordingly, I have only attached very limited weight to this consideration in the determination of the appeal.

Other Matters

31. Within the Appellant's submissions there is reference to concerns regarding the fee structure employed by the Council. Whilst I have noted those concerns and that the Appellant seeks clarification on these matters by the Planning Inspectorate, such matters fall outside the scope of a section 78 appeal and have no bearing on the planning merits of the appeal proposal.

Planning Balance

32. The appeal scheme would involve residential development within the countryside where it has not been demonstrated that there would be an essential need to be on site to support a rural based enterprise. Furthermore, the provision of office space would conflict with the policies of the development plan when taken as whole, given that it has not been demonstrated that the

enterprise would require a countryside location. For the reasons given above, the proposed development would further conflict with the development plan with regards to provision of tourism accommodation.

33. In respect of all the main issues identified above, the proposal would not be located so as to facilitate access to local services and reduce the need to travel with occupants and visitors likely to be heavily reliant on private motor vehicles. With regards to the above, the proposal would cause significant harm to the overall strategy of the development plan which seeks to restrict unsustainable development within the countryside of the National Park. In summary, the appeal scheme would conflict with Policies COR1, COR2, COR15, COR18 and COR21 of the Core Strategy and would be contrary to Policies DMD1a, DMD9, DMD23 and DMD44 of the DMD and I attach significant weight to the conflict with these policies in the determination of this appeal.
34. The appeal proposal would not fail to conserve the landscape and scenic beauty of the National Park. The proposed development would also provide social benefits in terms of an additional unit towards housing supply as well as economic benefits in terms of the office, tourism accommodation and from the likely spend of future visitors within local businesses. There would be further limited economic benefits arising from employment opportunities during the construction phase. The proposal would make use of previously developed land. By reason of the scale of the proposed development, cumulatively I attach only moderate weight to these benefits.
35. For the above reasons, I find that the appeal proposal would conflict with the policies of the development plan and the Framework when taken as a whole and the associated harm of unsustainable development at this location outside of a settlement and within the countryside of the National Park, would not be outweighed by the moderate benefits which the scheme would provide.

Conclusion

36. Exercising my duty under section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), I find that in this case material considerations are not sufficient to outweigh the identified conflict with the development plan. For the reasons set out above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR