



Appeal Decision

Site visit made on 9 March 2022

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2022

Appeal Ref: APP/J9497/W/21/3271294

Spindles Land, Rew Road, Ashburton TQ13 7EJ

- 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 Clare Ballard against the decision of Dartmoor National Park Authority.
 - The application Ref 0327/20, dated 1 July 2020, was refused by notice dated 1 October 2020.
 - The development proposed is erection of dwelling on site of existing caravan.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of dwelling on site of existing caravan at Spindles Land, Rew Road, Ashburton, TQ13 7EJ, in accordance with the terms of the application, Ref 0327/20, dated 1 July 2020, subject to the conditions in the attached schedule.

Application for costs

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

Preliminary Matters

3. On the 1 October 2021, the Council adopted the Dartmoor Local Plan 2018 – 2036 (Local Plan), which supersedes the former development plan policies listed in the reasons for refusal. The appellant has been provided with an opportunity to comment on the implications of these changes and has not, therefore, been prejudiced.

Main Issues

4. The main issues are:
 - whether the location of the development accords with local plan policies that seek to locate new dwellings within settlements to increase accessibility to services and limit the need to travel; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Location of development

5. The appeal site is formed from a small sloping area of land on the outskirts of Ashburton and is accessed via a short unmade lane from Rew Road. To either side of the site, there are detached dwellings set in spacious curtilages. Though

- the distance between the site and settlement edge of Ashburton is relatively modest, it is a site which is in the open countryside and the interlinking road and lane are narrow, without footways or streetlighting.
6. The development comprises the construction of a single dwelling and would also include the enlargement of a parking area served by the existing access point. There is an existing caravan tucked into the north-east corner of the site which would also be permanently removed as part of the proposal.
 7. Local Plan Strategic Policy SP1.3 sets out that the only developments acceptable outside of settlements, include farming, forestry or other land-based rural business development with a proven need to locate in the open countryside, Gypsy and traveller, or other low impact development, which is well-related to a 'Local Centre' or 'Rural Settlement', householder development or other development necessary to sustain buildings or structures of conservation value.
 8. The proposal does not fit into any category of development that is supported by Local Plan Policy SP1.3, and nor is it promoted as a rural worker's dwelling as may be supported by Policy P3.9. Whilst it would be a form of replacement, it would not technically fall under the category of a replacement dwelling under Policy 3.8 either. Consequently, the proposal would result in the construction of a dwelling in the open countryside, in conflict with, in particular, Policies SP1.1, SP1.2, SP1.3, SP1.5, SP2.1, P3.8 and P3.9 of the Local Plan which, amongst other things, seek to focus development in the most sustainable locations.
 9. The appellant's evidence, supported by two Lawful Development Certificates¹, indicates that in line with Burdle², a single planning unit exists. This planning unit includes the use of land for the siting of a residential caravan and the use of the surrounding land as a garden and access to serve the same. From the evidence, I agree that there is a single planning unit, with the surrounding land physically and functionally linked to the residential use of the land.
 10. In my view, the lawful fallback is the ability for the caravan to be replaced with an alternative caravan (falling within the legal definition thereof³), providing within the established planning unit. I return to this matter below.

Character and appearance

11. The existing site is relatively green, sits low in the landscape and is screened from the adjacent lane by a high, dense, established hedgerow. The dilapidated caravan that is situated immediately behind the hedge is largely imperceptible from outside of the site.
12. The proposal is to remove the existing caravan and construct an L-shaped, single storey, pitched roof dwelling with two bedrooms. It would be positioned in place of the caravan but would be both longer and wider. The overall height would be 4.5 metres to the ridge, around 2.7 metres high to the front veranda enclosure and it would have a gross external area of approximately 96 sqm. The appellant describes the design ethos of the proposal as a 'cabin-style' dwelling, to be constructed with a timber frame and clad in timber with a natural slate pitched roof.

¹ LDC Refs: 0543/11 dated 16 December 2011 and 0475/19 dated 23 January 2020

² Burdle & Williams v SSE & New Forest RDC [1972] 1 WLR 1207

³ Under the Caravan Sites and Control of Development Act 1960

13. Whilst I accept that the proposed dwelling is larger than the existing caravan and would be moderately more visible in the wider landscape and to passers-by, it would still be a relatively compact building and would still be positioned relatively discreetly within the site. Its use of timber and natural slate would reflect neighbouring buildings and dwellings, including the dwelling 'Spindles'.
14. I do accept that the fenestration and oak beam detailing on the veranda is more complex and fussier than would be typically expected of buildings within the National Park, and would be more domesticated than the simple design of the 'Haytor Centre' which is cited as a comparative example by the appellant. However, the side elevation which would be most visible from the lane would be relatively discreet and unassuming, with the full effect of the fussier components only likely to be appreciable from within the site. In my view, the dwelling would be perceived as an attractive 'cabin-style' building which would pick up similarities with neighbouring dwellings and would assimilate well within its semi-rural context.
15. I have also had regard to the removal of the unsightly caravan and the fallback which would enable a lawful caravan to be positioned on the site, the appearance of which could not be controlled. This is a consideration which leads me to depart from the application of the ambitions of Policy P3.8 which seeks to limit the increase in habitable floorspace of replacement dwellings to no more than 30%. Furthermore, the amount of development to accompany the proposal, in the form of extending a gravelled parking area from the existing gate, would also be limited in terms of character and visual effects.
16. In view of the above, the proposal would not be harmful to the character or appearance of the area, and would therefore comply with, in particular, Local Plan Policies SP1.1, SP1.2, SP1.5 and SP2.1. These Policies, amongst other things, collectively seek to ensure that new development conserves and enhances the character, quality and tranquillity of the National Park and sustains and enhances the setting, character and local distinctiveness of settlements.

Conditions

17. In addition to the statutory time limit condition, a condition is necessary in the interests of certainty.
18. In order to limit the impact of the construction phase, a method statement detailing a programme of works and site traffic management measures is required prior to commencement and shall be adhered to throughout the construction phase. A condition requiring a construction phase environmental management plan is also required for similar environmental reasons. Due to the need for such measures to be in place, these conditions are unavoidably required prior to commencement of the development and have been agreed with the appellant accordingly.
19. In order to ensure that the development takes place without adverse environmental or ecological impacts, conditions are required to ensure that the drainage strategy and ecological appraisal recommendations are followed during the course of development. For similar reasons in relation to the effects on protected species, a lighting strategy is required before any lighting is installed on the site.

20. In the interests of the character and appearance of the area, details of external materials are required prior to their use in the buildings, and similarly, conditions are required in connection with doors, windows and minor external details such as rainwater goods. Also in the interests of the character and appearance of the area, a condition is necessary requiring the permanent removal of all remnants of the demolished caravan.
21. The Authority has suggested a condition removing the permitted development (PD) rights to make external alterations, including roof alterations, extend the building or add incidental buildings within the planning unit. The Planning Practice Guidance (PPG) states that wholesale restrictions on the future use of permitted development rights are unlikely to pass the test of reasonableness or necessity.
22. In this case, given the increase in scale of the development and its associated visual impacts, compared to the former limited use of the site, I agree that there is a need to prevent further extensions to the dwelling and addition of new buildings, particularly as these would only be capable of being constructed in more visible areas of the site. The same applies for roof alterations, as whilst these would be less visible, the desire to control the quality of finish of the development would be undermined if subsequent changes could take place. I consider that the proposal's effects on the character and appearance of the site are acceptable, but incremental additional change would be harmful. I therefore consider that the use of the PD removal condition is reasonable and necessary, and have reworded it to ensure that its limitations are precisely defined as per the PPG advice.

Planning Balance and Conclusion

23. In respect of its effects on the character and appearance of the area, I consider that the proposal would not result in harm. Whilst the development would not be strictly located within a settlement, and raises conflict with the development plan in this regard, the material consideration of the fallback position in this case leads me to conclude that a decision should be taken other than in strict accordance therewith.
24. For the reasons set out above, the appeal is allowed.

Hollie Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site and Roof Plan, Ref: J-0244 GA-01, dated 06/18
 - Ground Floor Plan, Ref: J-0244 GA-02, dated 06/18
 - Elevations as proposed, Ref: J-0244 EL-01, dated 06/18
 - Elevations as proposed, Ref: J-0244 EL-02, dated 06/18
 - Section, Ref: J-0244 EL-03, dated 06/18
 - Site Location Plan, Ref: SL-LP-02, dated 01/07/2020
3. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include details of:
 - (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) programme of works (including measures for management of deliveries and access to site).The development hereby approved shall be implemented and completed strictly in accordance with the approved Construction Method Statement.
4. No development shall commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall provide for:
 - Precautionary working methods for protected species; Risk assessment of potentially damaging construction activities;
 - Practical measures to avoid and reduce impacts during construction;
 - Location and timing of works to avoid harm to biodiversity features;
 - Responsible persons and line of communication; and
 - Use of protected fences, exclusion barriers and warning signs.The development hereby approved shall be implemented and completed strictly in accordance with the approved Construction Environmental Management Plan.
5. The development hereby permitted shall proceed in strict accordance with the approved recommendations in the Preliminary Ecological Appraisal (Burton Reid Associates, June 2020). The dwelling hereby permitted shall not be first occupied until written confirmation has been provided to the Authority by the consultant ecologist that the recommendations have been implemented.
6. Prior to the installation of any lighting, a lighting scheme, including written confirmation from a licensed ecological consultant that the proposed lighting is sensitive to bats and other nocturnal species, shall be submitted to the Local Planning Authority for approval. Thereafter, the development shall be carried out and completed in accordance with the approved lighting scheme.

7. Implementation of the sewage disposal and surface water drainage works shall be in strict accordance with the submitted Drainage Strategy plan numbered 0398.101 Rev.A.
8. Prior to any works above finished floor level of the development hereby approved, samples of all proposed surfacing, external facing and roofing materials shall be submitted to the Local Planning Authority for approval. Thereafter, the development shall be carried out and completed in accordance with the materials as approved and such material finishes shall thereafter be retained in perpetuity.
9. All external doors and windows in the development hereby permitted, shall be of timber and/or aluminium frame construction and shall at all times thereafter be retained as timber and/or aluminium framed windows and doors.
10. All gutters and downpipes on the development hereby approved shall be of metal construction, round or half-round in section, and shall be painted black not later than 30 days after the substantial completion of the development. Thereafter, the gutters and downpipes shall at all times thereafter be retained as such.
11. Prior to first occupation of the replacement dwelling hereby permitted, the existing caravan and all associated demolition debris not utilised in the construction of the dwelling shall be permanently removed from the site.
12. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order revoking and re-enacting that Order with or without modification, other than those expressly authorised by this permission, no development under Schedule 2, Part 1, Classes A, B, C or E shall take place on or within the curtilage of the dwellinghouse hereby permitted.