



Appeal Decision

Site visit made on 17 May 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2023

Appeal Ref: APP/J9497/W/21/3288876

Higher Combe, Lustleigh, North Bovey, Devon TQ13 9SE

- 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 Alex Spring against the decision of Dartmoor National Park Authority.
 - The application Ref 0441/21, dated 30 July 2021, was refused by notice dated 6 October 2021.
 - The development proposed is new manege (50 x 25m) and associated landscape works and partial change of use of an existing agricultural barn to stables.
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Decision

1. The appeal is dismissed insofar as it relates to the new manege (50 x 25m) and associated landscape works.
2. The appeal is allowed insofar as it relates to the partial change of use of an existing agricultural barn to stables at Higher Combe, Lustleigh, North Bovey, Devon TQ13 9SE in accordance with the terms of the application Ref 0441/21, dated 30 July 2021, and the plans submitted with it, so far as relevant to that part of the development hereby permitted, and subject to the following conditions:
 - 1) The development hereby permitted (partial change of use of an existing agricultural barn to stables) shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted (partial change of use of an existing agricultural barn to stables) shall be carried out in accordance with the following approved plan: Proposed stables (change of use) in existing agricultural barn, M009-3-105.
 - 3) Any manure or dung heap shall be sited so as to prevent discharge or pollution to any well, borehole, spring or watercourse, including any dry ditch forming a connection to a watercourse, by the release of contaminated run-off.

Application for Costs

3. An application for costs was made by Mr Alex Spring against Dartmoor National Park Authority. This application is the subject of a separate Decision.

Preliminary Matters

4. I have taken the address from the submitted appeal form as this appears to more accurately reflect the appeal site address, with the exception of the post code which I have taken from the application form.
5. I have taken the above description from the application form. However, the appellants Grounds of Appeal states that along with the construction of the manege and the partial change of use of an existing barn to stables, the application also includes a Certificate of Lawfulness application to establish the lawful boundary of a domestic curtilage. Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the content of such an application and how it must be submitted. This is a separate application and appeal process to the one before me and accordingly it is not within my power to establish the lawful boundary of the domestic curtilage as part of this appeal.
6. Since the Authority issued its decision, it has adopted the Dartmoor Local Plan 2018-2036 (LP). Policies COR1, COR3, COR4, COR11, DMD1b, DMD4, DMD5, DMD7 and DMD33 referred to in the Authority's refusal notice have now been superseded and the Authority has provided me with the relevant policies from the LP. The LP was adopted in December 2021 which was prior to the submission of the appeal. Therefore, all parties have had the opportunity to deal with this in their submissions. I have dealt with the appeal on this basis.
7. For the reasons that follow, I find that the proposed change of use of an existing agricultural barn to stables to be acceptable and clearly severable both physically and functionally from the proposed manege. Therefore, I have issued a split decision in this case and grant planning permission for the stables.

Main Issue

8. The main issue in this appeal is the effect of the proposed manege on the character and appearance of Dartmoor National Park.

Reasons

9. The appeal site is located within a woodland area in the 3A Upper Farmed and Wooded Slopes Landscape Character Area (LCA). The Dartmoor Landscape Character Assessment sets out the key characteristics of the LCA as being a rolling agricultural landscape with a network of trees and hedges and patches of woodland creating a well treed character. It is a valued landscape particularly in respect of its large areas of woodland, winding lanes enclosed by hedgerows and a sense of calm.
10. The appeal site and its environs exhibit the characteristics of the LCA. There are sporadic dwellings but on the whole, the landscape has a very natural character. The area is heavily treed which gives a shady, enclosed feel where the noise from birdsong and the wind through the trees is prevalent. This results in the area being experienced as a tranquil environment. I note that the appeal site encompasses predominantly non-native Sitka Spruce trees but they nonetheless contribute to this character by enclosing the landscape and provoking a feeling of calm. The appeal site is slightly elevated above the public road and as such, there are clear views into and across the site.

11. The appeal proposal would involve the localised regrading of the ground to form a level area. The submitted section drawings indicate that the level area for the manege would be formed by cutting into the existing land and filling the area which currently slopes gently down towards the public road. This would result in the land closest to the road sloping more steeply than at present. These earthworks, together with the erection of a timber fence around the perimeter of the manege would be man-made, contrived and unnatural. They would be incongruous in an otherwise natural environment. In addition, it would introduce an activity with a discernible level of noise into an otherwise tranquil environment.
12. The proposal would also involve the removal of approximately 0.8 hectares of trees. Whilst the trees proposed for removal are non-native, the LCA indicates that large areas of woodland are valued landscape attributes and does not distinguish between native and non-native species. The loss of an extensive area of trees would be harmfully evident from outside the site and diminish the scenic beauty of the area. It would allow light to flood in and this would erode the shade currently experienced in the vicinity of the site. In addition, this opening up of the landscape would be in stark contrast to the intimate feel associated with woodland and would harmfully alter the way in which the landscape here is experienced.
13. Taken together, there would be an adverse visual effect which would harmfully detract from the scenic beauty of the appeal site and its immediate environs. Whilst the effect would be relatively localised, it would nevertheless detract from the way in which the landscape is experienced, its character and the valued landscape qualities set out in the LCA.
14. The appeal site is identified as being located within a Woodland of Conservation Importance. Strategic Policy 2.4 of the LP seeks to conserve and enhance woodland and only permits development which would conserve, enhance and/or restore features of landscape importance. A comprehensive landscaping proposal and a Preliminary Ecological Appraisal (the Appraisal) were submitted with the application. This would include planting the area around the manege with native broadleaved trees and a new hedgerow along the roadside for a length of approximately 350 metres.
15. Even if I agreed with the appellant that this would result in the manege and associated earthworks being screened from outside the site, the trees would take many years to establish and provide the level of tree canopy cover currently experienced at the site. The introduction of a roadside hedge would add to the rich hedgerow network identified in the LCA as a key characteristic of the Upper Farmed and Wooded Slopes Landscape but again this would take time to establish and provide sufficient screening to mitigate for the stark and harmful presence of the manege when viewed from the public road.
16. Policy 5.10 of the LP permits equestrian development subject to certain criteria. The proposed manege would not be isolated, being located adjacent to the existing tennis court and close to the neighbouring property. However, the policy also requires that the development conserves and/or enhances the National Park's special qualities particularly landscape character and I have found that the proposed manege would not. As a result, there is conflict with the policy as a whole.

17. Given my findings above, I conclude that the proposed manège would not conserve or enhance the landscape and scenic beauty of the National Park.
18. The appeal submissions include landscaping proposals for two further areas of land which lie outside the area proposed for the manège. One area of semi-improved grassland, currently used for grazing, is identified as a location for compensatory woodland creation and another area of bracken, scrub and developing woodland would be left undisturbed. The appellant asserts that all the landscaping proposals together would represent a significant biodiversity enhancement.
19. However, the Appraisal indicates that the proposals would have a largely neutral impact on many species of flora and fauna. Indeed, the conclusion at paragraph 6.2 on page 24 of the Appraisal states that in order for the development to result in a neutral or positive biodiversity impact, the development would also need to include additional measures such as habitat piles, together with provision for bat roosts, bird nesting and invertebrates. Whilst these could be required by a suitably worded condition to result in a positive biodiversity impact, the biodiversity benefits of the proposal have been overstated. As a result, I find that the biodiversity benefits are no more than modest.
20. The woodland is currently managed and thinned to provide timber for the biomass boilers providing heat and energy for the estate. As such, the sitka spruce could be felled in any event. However, the evidence before me indicates that this is selective thinning and felling. Therefore, even if there were firm proposals before me to remove the trees for this purpose, it would appear unlikely to be on the scale proposed in the appeal submission.
21. National Parks are landscape designations of national importance. Section 11A (2) of the National Parks and Access to the Countryside Act 1949 (the Act) requires that I have regard to the purposes of the National Park designation. National Parks have two purposes, both conservation and encouraging recreation. Where there is conflict between these purposes, the Act requires that greater weight is attached to the purpose of conserving the natural beauty of the National Park. This is also set out in Strategic Policy 1.1 of the LP.
22. I have found that the proposed manège would have a harmful impact on the landscape character and scenic beauty of the National Park. I have had regard to the mitigation proposals advanced by the appellant and that the proposal would be for recreation purposes. However, these do not outweigh the great weight I give to conserving or enhancing landscape and scenic beauty in National Parks as required by Paragraph 176 of the National Planning Policy Framework (the Framework).
23. As such, the manège would be contrary to Strategic Policies 1.1 and 1.2 of the LP insofar as they support the statutory purpose of designating a National Park and the need to conserve and enhance the natural beauty of the area. The proposal is also contrary to Strategic Policies 2.1 and 2.4 and Policy 5.10 of the LP which seek to conserve and enhance the character of Dartmoor's landscape together with its Woodlands of Conservation Importance, together with paragraph 176 of the Framework and the requirements of the Act.

Other Matters

24. The appeal proposal includes the change of use of an existing agricultural barn to stables. In this respect it complies with criteria 1.e) of Policy 5.10 of the LP relating to the use of existing buildings. The Authority have not raised any concerns relating to this element of the proposal. The plans submitted with the application indicate that the land ownership is a significant area of land on which to exercise horses and as such the stabling of horses is not dependant on the manege. As such, I consider that a split decision to permit the change of use of the barn to stables is justified.
25. I note the other concerns raised by interested parties in relation to the proposed manege but given my findings on the main issues and the appeal overall, it is unnecessary for me to consider these points further as they would not alter the outcome of the appeal.
26. The appeal site is partially within the South Hams Special Area of Conservation (SAC) Landscape Connectivity Zone for greater horseshoe bats. The Appraisal accompanying the planning application indicates that the size and scale of the appeal proposals and the habitats that would be affected would not lead to the loss, damage or disturbance to a network of potential commuting routes at a landscape scale. The Authority's Ecologist confirms that there would not be a likely significant effect resulting from the appeal proposal and I have no reason to disagree with this expert view. In light of this and given that I am dismissing the appeal in respect of the manege and allowing it only in respect of the change of use of an existing building, I am satisfied that an appropriate assessment under Regulation 63 of the Habitats Regulations 2017 in terms of the impact of the proposal on the SAC is not required.

Conditions

27. In respect of the proposed stables, I have attached the standard time limit and a plans condition in the interests of certainty. I have imposed a condition requiring that any manure or dung heap is sited so as to prevent contamination of any watercourse in the interest of protecting the natural resources of the National Park.
28. I have not imposed the condition suggested by the Authority which would limit the stables to domestic stabling only. Such a condition would be unnecessary given the limited scale of the proposal and its distance from any neighbouring property. I am also not satisfied that restricting its use would be necessary in order to protect the character and appearance of the National Park. I do not find that the suggested conditions limiting lighting and amplified music are necessary given the limited scale of the proposal, the surrounding topography and distance from any neighbouring property. A condition restricting the provision of equestrian paraphernalia on other land within the appellant's control would be beyond the scope of this proposal and would not be necessary to make the proposed stables acceptable. Finally, I have not imposed a condition restricting the erection of buildings, enclosures, structures or hard surfaces in the curtilage of the dwelling as the clear justification referred to in Paragraph 54 of the Framework has not been provided.

Conclusion

29. For the reasons given above, I conclude that the appeal should be allowed insofar as it relates to the stables.

30. However, I have identified harm in respect of the effect of the proposed manege on the character and appearance of the National Park and therefore a conflict with the development plan as a whole would occur. There are no other considerations or public benefits that would outweigh this harm. It would therefore fail to satisfy the requirements of the Act, the Framework and the development plan. Accordingly, for the reasons given, the appeal in respect of the proposed manege has failed.

Alison Fish

INSPECTOR