



Appeal Decision

Site visit made on 30 January 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2024

Appeal Ref: APP/J9497/W/23/3316946

Elliotts Farm, Buckland-In-The-Moor, Ashburton, Devon TQ13 7HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Terence Andrew against Dartmoor National Park Authority.
 - The application Ref 11706735, is dated 21 November 2022.
 - The development proposed is described as "creation new business".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a failure to determine the application within the prescribed period and where the Council did not validate it. I am satisfied that the Council has notified those that should have been as part of the appeal process.
3. The Council's main concerns relate to the suitability of the proposed development in this countryside location and its effect on biodiversity. These concerns are also shared by a 3rd party. The appellant has had the opportunity to comment and would therefore not be prejudiced by these forming the basis for the main issues.
4. The description of development set out in the application form is not sufficiently precise. The application form does however reference equine and pony breeding as a proposed commercial activity at the appeal site. Furthermore, the appellant's appeal form identifies the proposed business as equine. The appellant agrees in correspondence to the Council in December 2022 that the development can be described as 'construction of stable block for new equine business'. I have dealt with the appeal on that basis.
5. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit that the numbering of paragraphs has changed. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context.

Main Issues

6. The main issues are (i) whether the proposed development is in a suitable location having regard to development plan policies; and (ii) the effect of the proposal on biodiversity.

Reasons

Location

7. Strategic Policy (SP)1.1 of the Dartmoor Local Plan 2018-2036 (LP) sets out the overarching purposes of the National Park (NP) which are to protect its special qualities whilst meeting the needs of its communities. Amongst other things, SP1.2 and SP1.3 of the LP support developments that minimise the need to travel, prioritising the use of previously developed land and buildings where there is a proven need for a countryside location.
8. Additionally, the economic strategy highlights the support for rural land-based businesses that are proportionate to a proven functional need, and this is reiterated within Policy 5.8 of the LP. In that context, the supporting text to Policy 5.10 of the LP advises that all applications for equestrian development must include a land management plan to provide information relating to the type and intensity of use. Whilst this text does not have the force of policy, it nevertheless informs it. No such plan has been submitted. The upper case policy only permits equestrian development under certain circumstances. It advises that new buildings should be clustered with existing building groups and appropriately enclosed. The policy, along with Policy 5.8 of the LP also requires the use of existing buildings wherever possible.
9. The appeal site is located in the NP where paragraph 182 of the Framework attaches great weight to conserving and enhancing its landscape and scenic beauty. It comprises an agricultural field near an historic grouping of buildings and an equine training area. As part of this group of buildings, I observed a large barn with numerous separate stables within. The appellant says that the proposed u-shaped stable building would serve a new stand-alone private equine business for breeding 9 ponies or foals. However, the submitted design and access statement notes that the business would focus solely on Dartmoor ponies.
10. The plans indicate that the appeal building would include 9 stables with associated tack, feed and storage space. It would be sited within the corner of the field and next to well-established natural screening. The proposal would not be isolated from the nearby group of existing buildings. However, due to the sloping topography and intervening vegetation, it would be read as being set apart from this group, outside its cluster. Furthermore, it would cover a notably large overall footprint.
11. It is submitted that the new equine business would provide employment for locals who could walk or cycle, and that a residential barn is available for various workers. There is little evidence to demonstrate accommodation on site would only be made available for employees. Furthermore, access would be gained via an unlit and unpaved steep country lane. It would therefore not be an inviting route for local employees to have to navigate on a regular basis, particularly in the dark or during times of inclement weather. As such, it has not been demonstrated that the development would reduce the need to travel. Notwithstanding this, the application form states that there would be no employees at the appeal site. The aforementioned evidence is therefore contradictory.
12. Drawing these matters together, even with sufficient funding and a track record of other successful business, information relating to this intended

business operation is very limited. Therefore, in the absence of any compelling evidence to the contrary, it has not been demonstrated that the proposed development's scale is proportionate as promoted by SP5.1 of the LP, or that there is a proven functional need for it. As such, although the nature of the proposal would not appear untypical of its rural setting, the natural beauty of the NP would not be conserved or enhanced by the proposed development. Additionally, whilst the benefits of other facilities near the appeal site such as car parking, electricity and water are noted, it has not been shown why existing buildings would be unsuitable for the intended use.

13. Therefore, for the above reasons, I conclude on this main issue that the proposal is not a suitable location having regard to development plan policies. As such, it would conflict with SP1.1, SP1.2, SP1.3, SP2.1, SP5.1 and policies 5.8 and 5.10 of the LP. There would also be conflict with paragraph 182 of the Framework.

Biodiversity

14. The appellant claims that the proposal would have zero effect on biodiversity, though no substantive evidence is provided in support of this assertion. The appeal site is not within a priority habitat and the appellant claims it is low input grassland not deemed to have any ecological significance. It is however largely laid to grass and includes rough weeds and brambles on the part of the site where the stable would be positioned. The Council says that these features have some wildlife value. Moreover, the Council's ecologist confirms the proposed development would result in habitat loss.
15. The area is said to cover approximately 200sqm within a 70 acre holding. The appellant identifies initiatives including tree planting nearby and off-site on Bodmin Moor. Notwithstanding these and any management of wildlife activities by Devon Wildlife and Countryside Stewardship, based on the evidence before me, it remains conceivable that the appeal site could have significant biodiversity value.
16. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. Without any survey of the relevant features, it is simply not known whether protected species are present and, if there are, whether mitigation measures would be appropriate. There is a further question concerning the implementation of any such measures, including the requirement to deliver a 10% net gain in biodiversity. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.
17. The absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, the proposed development would be contrary to SP2.1 and SP2.2 of the LP, which, together in this respect seek to conserve and enhance all Dartmoor's biodiversity, delivering 10% net gains. It would also fail to accord with paragraph 186 of the Framework where it states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for then planning permission should be refused.

Other Matters

18. The appellant's comments in respect of their relationship with the Council, the planning history and processing or validity of the application are noted. However, these have no bearing on my decision which is based on the planning merits of the proposal.
19. The appellant refers to similar nearby planning approvals that they claim set a precedent. Whilst there may be similarities in respect of the breeding of horses and ponies, I am not aware of their detailed site specific characteristics. Additionally, I have been provided with very little information in this regard. Moreover, I have determined this appeal based on my own observations and the evidence before me.

Conclusion

20. For the reasons above, and taking into account all other matters raised, I conclude that the proposed development would fail to accord with the development plan as a whole and there are no considerations individually or cumulatively that outweigh this. Therefore, the appeal is dismissed and planning permission is refused.

J Hills

INSPECTOR