



Appeal Decision

Hearing held on 27 February 2024

Site visit made on 27 February 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2024

Appeal Ref: APP/J9497/C/23/3326723

Land known as Beech Court, formally New Glebe Stables, Buckland-in-the Moor, Ashburton, Newton Abbot, in the County of Devon

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Miss Amanda Barnett against an enforcement notice issued by Dartmoor National Park Authority.
 - The notice was issued on 22 June 2023.
 - The breach of planning control as alleged in the notice is Without planning permission: The material change of use of the Land from an equine use to a mixed use of equine and residential use and the siting of a shepherds hut in the approximate position marked with blue hatching on the Plan.
 - The requirements of the notice are to:
 - 5.1 Permanently cease the residential use of the land and:
 - 5.2 Permanently remove the shepherds hut from the land and any incidental domestic structures and paraphernalia.
 - The period for compliance with the requirement is: 12 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by the deletion of the word *shepherds* from Sections 3 and 5.2 and its replacement with *shepherd's*.
2. Subject to the correction, the appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the material change of use of the Land from an equine use to a mixed use of equine and residential use and the siting of a shepherd's hut at Land known as Beech Court, formally New Glebe Stables, Buckland-in-the Moor, Ashburton, Newton Abbot, in the County of Devon as shown on the plan attached to the notice and subject to the conditions set out in the schedule at the end of this decision.

The Notice

3. With the appeal submissions the appellant provided an amended plan showing what she considers to be the correct on-site position of the shepherd's hut. However, whilst in fact it would appear that the location shown on the plan attached to the notice better reflects the on-site position, in any event the reference on the notice is to an approximate position. It is clear that the

appellant understands to which structure the notice relates and where on the site it has been located. Consequently, it is not necessary for me to make any changes to the notice in that respect.

4. Having reviewed the suggested planning conditions set out in the Statement of Common Ground, I raised with the main parties as to whether what is alleged to have taken place is in fact a mixed use, or whether it relates to two separate planning units, namely one consisting of the equestrian use and one consisting of the residential use. With reference to the case of *Burdle*¹, both main parties offered the view at the hearing that there is a single planning unit that is in a mixed use because the land is put to two or more activities and it is not possible to say that one is incidental to another.
5. I have taken the views of the main parties into account in reaching a conclusion on this matter. Whilst the residential activity associated with the hut could result in an area that might be distinct from the area where equestrian activities would take place, the uses are related in that if it were to be deemed acceptable to retain it, the hut would only need to be on the appeal site in connection with the proposed equestrian business. On that basis I am content that the notice does not need amending to separate out the uses, provided that the location of the hut could be defined through the submission and approval of a site layout plan.
6. It was also established at the hearing that the appellant has sold off one field which is contained within the land to which the notice relates. The Authority's position on this is that the plan which is attached to the notice should be amended to remove the field in question. However, subject to the position of the hut being defined by condition and limited to the one existing unit, if planning permission was granted there would be no possibility of another hut or caravan being placed on that land without permission. I therefore see no adverse outcome in leaving the notice unchanged.
7. I have corrected the notice to address a minor matter with respect to the use of an apostrophe. I am satisfied that this can be done without causing injustice to any party.

Preliminary Matter

8. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts of the Framework most relevant to this appeal have not substantively changed from the previous iteration and the main parties agreed at the hearing that their cases remain unaltered with respect to the Framework.

Main Issues

9. The main issues are:
 - (i) Whether there is an essential need for a dwelling to accommodate a rural worker
 - (ii) The effect of the development on the character and appearance of the Dartmoor National Park

¹ *Burdle & Williams v SSE & New Forest DC* [1972] 1 WLR 1207.

Reasons

Whether an essential need

10. Policy 3.9 of the Dartmoor Local Plan 2021 (DLP) sets out that to support the establishment of rural-land based businesses, permission for a residential caravan will be granted for a temporary period up to 3 years, subject to functional and financial tests being met including by the viability of the proposed business being demonstrated through business planning. The Framework seeks to support a prosperous rural economy, including at paragraph 88b) through the development of land based rural businesses. Paragraph 84a) of the Framework allows for an isolated home in the countryside, such as that subject to this appeal, where there is an essential need for a rural worker to live permanently at or near their place of work.
11. The Rural Worker's Dwelling Appraisal March 2021 (RWDA) sets out a business plan which shows a projected net profit in year 3 that would be sufficient to provide a satisfactory financial return and thus mean that the business would be considered to be viable. It is accepted by the Authority that the appellant is a highly experienced equestrian, having worked with horses for many years. Whilst it is unclear whether the appellant has operated the yard as a hobby or a business in most recent times, and I was advised at the hearing that it is somewhere between the two, the Authority does not dispute that there is clear potential for a viable business, based on the plan that is set out in the RWDA.
12. I am aware that the credentials of the proposed business are questioned by interested parties and that there has been the passage of some time since the RWDA was written. However, on the basis of the positions of the main parties and their expert advisors I have no reason to doubt the soundness of the business plan going forward and that it could potentially pass the 'financial' test. I was also made aware at the hearing that the appellant has subsequently sold one field within the land area to which the notice relates and that she has a buyer for a second field. From what I heard from the main parties, the sale of the first field is unlikely to be problematic to the proposed business, as food for the horses can instead be brought in. The appellant advised that the second field would not be sold if this appeal is successful.
13. Whether or not that is ultimately the case, any planning permission granted would initially be for a temporary period with the viability consideration in mind. It would seem to me to be unlikely that the appellant would reduce her landholding to such a level where she would be unable to demonstrate a viable business after what would in effect be a trial period. On that basis I am satisfied that in all probability she would retain the second field if it was needed for the proposed business to be viable or, if it is not needed for that reason then she may indeed proceed with the sale. But either way, the future status of the second field is not a matter which leads me to doubt that the appellant would be able to proceed to develop a viable business.
14. The principal matter of dispute between the main parties therefore relates to whether there is an essential (functional) need for a rural worker to live at the appeal site full-time in order to ensure the effective operation of the enterprise which it is intended will take place there. The Planning Practice Guidance² sets out that such a need might arise in instances where farm animals or

² Paragraph: 010 Reference ID: 67-010-20190722

agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products.

15. The RWDA sets out four broad areas of consideration in support of the appellant's position that there is a need for someone to be present on the site full-time. These are firstly for the close supervision, management and 'simple' daily requirements of horses boxed in the stables and/or in the paddocks, secondly for down-foaling mares, thirdly for the provision of security for the animals from theft and malicious attack and fourthly for dealing with unforeseen emergencies. Depending on the nature of the business that is carried out, these are matters that could demonstrate an essential need, either individually or when taken cumulatively.
16. The close supervision and management of the horses and providing for their simple daily requirements are processes that could reasonably be undertaken without the need for someone to live at the appeal site full time. The appellant sets out that a typical working day would encompass the hours of 6am to 6pm, but reference is also made to the need for the early morning feeding of those horses going off to racing and then their settling back into their stable or paddock on their return, and to instances where horses have required a rug on at 8pm. Reference is also made to the need for a late evening check to be made on the horses and to management matters such as checking when mares are in season and the need to ensure that stallions and mares are kept separate from one another. Running the yard on that basis as a single employee would undoubtedly result in long days for the appellant.
17. The provision of residential accommodation on the appeal site would reduce her burden in that she would not need to travel back and forward between another dwelling and the horses during the working day, however long that particular day may be. But her start and end times would remain the same. Even residing on the appeal site, it would appear improbable that she would be able to sustain such long working days without building in periods to rest and to break from work. It would therefore in effect be a matter of convenience that she could do so whilst remaining on the site instead of having to leave it, as opposed to a matter of essential need in order to ensure the effective operation of the enterprise.
18. The appellant confirmed at the hearing that it is intended that there would be the birth of no more than four foals per year. It is common ground between the main parties that during foaling and for a period afterwards caring requirements would be constant and would reasonably need to be met by a full-time on-site presence. However, the Authority is of the view that this need could be met by the bringing of accommodation such as a touring caravan on site for those periods. Their view on this remains unchanged by the fact that births would not be contained to May only as was originally understood but could occur in a much wider spread of months. To some degree a spread of births may be a practical necessity given that the appellant would be the sole worker.
19. It is a reasonable proposition on the evidence that is available that the appellant does not need to live on the site all year round to meet the needs associated with delivering at most four foals. However, the Authority's

suggestion that a caravan be brought on to site as and when accommodation is required in connection with the foaling is problematic, in particular in the context of births being spread over the year. This could in practice result in a caravan being brought to the site and removed from it on four separate occasions annually. This in itself may necessitate a requirement to obtain planning permission, and I have not been made aware of any provisions under permitted development rights that may allow for such accommodation in conjunction with an equestrian use.

20. More specifically, the appellant refers to having experienced gestation periods in her horses of between around 10 months and just over 12 months. This creates uncertainty as to at what point the touring caravan would need to be brought onto the site to allow the appellant to monitor the mare and to be sure that she would be on site when labour started. There may be similar uncertainty in terms of how long the caravan would reasonably need to remain on the site after the birth. By no means do I rule out the possibility of the appellant and Authority being able to reach a workable solution that would fit around any need to have planning permission and the Authority's clear concerns about visual impact that have been raised in conjunction with this appeal and a previous refused planning application for a campervan, but there is no certainty in the information I have before me that one would be found. I shall return to this consideration later in my decision.
21. There is nothing before me to suggest that the surrounding area suffers from notably high crime levels, and indeed based on what little evidence has been provided it would appear that crime levels may actually be particularly low. Discussions that took place at the hearing suggested that selling valuable stolen horses is in fact difficult to the point that there is not a lucrative market arising from their theft. The items to which the appellant refers to in terms of security matters and in particular recent instances of theft do not appear to be directly related to the horses but instead to building materials, and my attention has not been drawn to anything else kept on the site that is of financial value and which could easily be removed from it, and thus might attract thieves.
22. The possibility of malicious attacks on the horses is raised in the appellant's submission, but there is nothing substantive to suggest that this would be a likely occurrence or is of a particular concern in the pony breeding and racing world. Furthermore, a full-time on-site presence does not mean there would always be someone present on the site and in any instance may be only a limited deterrent to a concerted attack aimed at destabilising the business. There is nothing to suggest that there is a high public footfall past the appeal site, but again it is far from certain that even with the appellant living on the site she would be able to prevent well-meaning passers-by from feeding the horses. I am not therefore persuaded that there is an essential need for someone to live on the site to provide security.
23. Reference is made to emergencies such as a horse becoming cast in its box or suffering from colic, and damage to the stables and associated buildings from the horses, severe weather and fire. I heard at the hearing that through good management, instances of horses becoming cast and suffering from colic can be reduced, which the appellant did not dispute. The appellant has not referred to any specific occasions where her horses have become cast, and just one instance of colic is referred to in the submissions. This required sitting with the

horse for two nights which again would add to the time burden on the appellant, but which is not fundamentally altered by whether she lives on or off site. Without any substantive evidence to demonstrate otherwise, I am not persuaded that the appellant needs to live on the site for these reasons, even if the horses in question are potentially of a high monetary worth.

24. Earlier detection of illness in the horses may well be more likely with a permanent presence on site, but there would be a limit as to how many extra checks would be possible between the last evening check and a morning check. There is also the potential to explore the use of CCTV and other monitoring technology to compensate for a lack of on-site presence. The appellant refers to difficulties being able to get to the site in significantly adverse weather, such that if she resides away from the site it may be possible that she could not get there, even if there was the provision of CCTV that had alerted her to a problem. However, such occasions are likely to be limited, as would instances of damage occurring to the stable buildings including from fire. I am not therefore persuaded that on the basis of the case put forward that there is an essential need arising from unforeseen emergencies.
25. There is a final matter which has not been addressed by the appellant, that being the availability or otherwise of alternative accommodation in existing properties close to the appeal site. The RWDA did consider this matter and found that in 2021 there were no such properties available, and the Authority did not disagree that this was the case. However, four years have now passed since that time and the appellant has not updated this review in anticipation of this appeal being considered. This leaves a loose end in their case, as it has not been demonstrated that there has been no change in the circumstances with relation to the availability of alternative existing premises. It is necessary to include this consideration in my assessment of the appeal.

Character and appearance

26. At the hearing the Authority advised that its concerns about character and appearance fall away if the deemed planning application is assessed on the basis of the shepherd's hut being a temporary building that would remain on the site for a limited period. Indeed, Policy 3.9 of the DLP allows for the siting of a residential caravan for a temporary period of 3 years to support the establishment of a new farm or other land-based business. This policy therefore accepts that some degree of impact on character and appearance would result on the National Park from the provision of a temporary building, and indeed that such an impact would be permissible. On the basis of a permission being for a limited period there would also be no conflict with the aims of the other development plan policies set out on the notice, these being Policies 1.1, 1.2, 1.3, 1.5, 2.1 and 3.1.
27. As I have set out, any permission that I were to grant would need to be temporary, in order that the viability or otherwise of the proposed business could be established. In that context I find no reason to disagree that the retention of the shepherd's hut would accord with the aim of Policy 3.9 where it seeks to support new rural businesses through the provision of temporary accommodation.

Other Matters

28. The main parties have each referred to a number of previous appeal decisions on cases relating to essential need at sites where equestrian uses are taking place. Unsurprisingly, these demonstrate instances both where planning permission has been granted and refused. I have paid regard to those decisions in my determination of the appeal where relevant to the cases put forward by the respective parties, however ultimately the findings of each Inspector are based on the site-specific considerations to which I have not been fully party. In reaching my decision on this appeal I have therefore addressed the specific considerations in the case that is before me.
29. Concerns regarding a loss of privacy have been raised by interested parties. However, the shepherd's hut is situated a considerable distance from the nearest property. That distance ensures that it causes no undue harm with respect to loss of privacy.

Planning Balance

30. The business plan that has been provided shows that there is clear potential for the proposed business to be viable. This satisfies the financial test set out in Policy 3.9 of the DLP and allowing such a business to develop is consistent with both that development plan policy and the aims of the Framework to support a prosperous rural economy. A temporary permission of three years would provide a period of time to demonstrate whether, ultimately, this viability could be achieved. In terms of an essential (functional) need for the appellant to live on the appeal site full-time, for the reasons I have set out it has only been demonstrated that this arises with respect to times of foaling, and even then, a presence is not needed year-round.
31. That the need to live on site is not all year-round causes conflict with criterion 1a) of Policy 3.9, because the need is not to live on the site permanently in the sense of 24 hours a day, 7 days a week and 365 days a year. The appellant does not on the basis of the evidence provided have an essential need to live on the appeal site full-time in that sense. However, there is a tension arising from not knowing for how many days it would be reasonable to live on the site to deal with foaling, and whether she would ultimately be required, and be able to, obtain planning permission for a touring caravan to meet those needs. It would appear to me that there is scope for further disagreement between the parties as to what provision would be reasonable, and at the very least this would create considerable uncertainty for the appellant in going forward and establishing their new business.
32. This scenario would create a great risk that the business would not be started and thus not be allowed to grow towards the viability that both main parties are content it could achieve. Granting a temporary three year planning permission would give the appellant the opportunity to establish how long they would reasonably need to reside on site during the course of the year and make moves to endeavour to make provision for this. A three year period would also enable the appellant to provide further information as to the essential need, including with respect to matters relating to the welfare of the horses during night time hours and the availability of alternative existing properties.

33. For these reasons, whilst the development does not fully accord with Policy 3.9 of the DLP, the clear benefit of establishing the rural business and the risks I have outlined that the appellant would be put to if she had to rely on the touring caravan solution for which she does not have, and may not be able to obtain, planning permission, are considerations which outweigh the conflict with the development plan.

Conditions

34. As planning permission is to be granted for a three-year temporary period, it is necessary to impose a planning condition setting out this limited period. To satisfy the requirements of the relevant development plan policies, conditions are also required restricting any additional residential accommodation and limiting the occupation of the hut to a person employed in an equestrian business. A condition requiring the submission of a site layout plan including details of the position of the hut, a parking area and any garden area is reasonable and necessary, as noted above, to provide certainty as to the land area that this would entail. A condition restricting the use of permitted development rights is necessary to prevent any built development taking place which would have an impact on the character and appearance of the National Park.
35. The only structure permitted via this appeal is the shepherd's hut, which is a small structure that would only be retained on site for a limited period. It is not therefore necessary to impose a condition requiring details of any external lighting that may be installed on it. Whilst reference was made at the hearing to lighting that may be present on the stable building, that building does not fall within the scope of my consideration of this appeal. The hut has been present on the site for a length of time, and due to its size and location in a field it would be unlikely to have an adverse impact in terms of surface water run-off. It would also appear that arrangements for foul water drainage have been in place for that time, and there is nothing to suggest they have not been appropriate. Therefore, a condition relating to drainage is not needed.
36. Given that the permission would be temporary in its duration and because the shepherd's hut is a low level structure that is already screened from many vantage points, it would not be proportionate to seek secure additional landscaping or the repositioning of the structure on the site. I have addressed the matter relating to the potential selling off of the second field in my decision, and therefore whilst a condition in relation to that matter was suggested by the Authority at the hearing, I do not consider one to be necessary.
37. I have reworded the Authority's proposed conditions where appropriate, in the interests of precision.

Conclusion

38. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the material change of use of the Land from an equine use to a mixed use of equine and residential use and the siting of a shepherd's hut as described in the notice.

Graham Wraight INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Stuart Anderson – Willis & Co.

Peter Williams – Reading Agricultural Consultants

Amanda Barnett – Appellant

FOR THE LOCAL PLANNING AUTHORITY:

James Aven – Case Officer

Dan Meek – South West Norse

INTERESTED PARTIES:

Terence Andrew – Local resident

Schedule of Conditions

- 1) The use hereby permitted shall be for a limited period being the period of three years from the date of this decision. The temporary residential shepherd's hut hereby approved, together with any associated infrastructure, structures and domestic paraphernalia, shall be permanently removed, the residential use shall cease and the land be restored to its former condition on or before three years from the date of this decision.
- 2) The occupation of the residential shepherd's hut hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in an equestrian business, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 3) No additional residential accommodation shall be provided or stationed on the land at any time.
- 4) Within 3 months of the date of this decision, a plan showing the location of the shepherd's hut hereby permitted and the extent of the proposed vehicle parking area and any garden area associated with it shall be submitted to the local planning authority for approval in writing. Thereafter, the development shall take place in accordance with the approved details.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out under Schedule 2, Part 1 (Development within the curtilage of a dwellinghouse) classes A, B, C, D and E other than those expressly authorised by this permission.

-----End of Conditions-----