



# Appeal Decision

Site visit made on 9 April 2024

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 30 April 2024

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**Appeal Ref: APP/J9497/W/23/3326583**

**Black Street Farm, South Tawton, Okehampton EX20 2LN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Sean MaCaffrey against the decision of Dartmoor National Park Authority.
- The application Ref is 0217/23.
- The development is change of use of part of an agricultural building to form a dwelling.

## Decision

1. The appeal is allowed and planning permission is granted for change of use of part of an agricultural building to form a dwelling at Black Street Farm, South Tawton, Okehampton EX20 2LN in accordance with the terms of the application, Ref 0217/23, subject to the conditions in the attached schedule.

## Preliminary Matters

2. I have removed reference to the development being retrospective in the description of development in the banner heading above as this is not an act of development.
3. At the time of my site visit the development had been carried out and appeared to accord with the submitted plans. For the avoidance of doubt, I have determined the appeal based on those plans.
4. My attention has been drawn to the planning history for the site that includes the original consent for the current building as a tractor shed<sup>1</sup>, an application for a Lawful Development Certificate<sup>2</sup>, a Planning Enforcement Order (PEO) issued in June 2022 and subsequent dismissed appeal to the High Court against the PEO in 2023. I also note that the appellant is seeking legal advice regarding a retrial in relation to the PEO and questions the approach of the Authority. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the proposed development is lawful as claimed by the appellant or to determine the legality of the PEO.

## Main Issues

5. The main issues are:
  - whether the development conserves or enhances the landscape and scenic beauty of the National Park,

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<sup>1</sup> Reference Number 0752/07

<sup>2</sup> Reference Number 0577/21

- whether the appeal site is an appropriate location for housing, with particular regard to the local development strategy, and
- whether any harm arising in relation to the first two main issues is justified by the appellant's circumstances.

## **Reasons**

### *Landscape and scenic beauty*

6. From the adjacent road only the upper parts of the building and roof are visible through existing boundary planting. From the road and access point, the building has an agricultural appearance.
7. Within the site, the presence of a front door and associated residential paraphernalia including the presence of garden furniture are visible and provide a sense of arrival at a dwelling. Whilst these features only have a small negative impact on the tranquillity, landscape and scenic beauty of the area over and above the originally consented building and layout, they do not conserve or enhance the area. Furthermore, there is the possibility of additional residential paraphernalia, for example through a house name, domestic gates, furniture, formal refuse collection points and other structures, should I allow the appeal. While further extensions to the building and external lighting could be prevented through appropriate conditions, it would not prevent the other changes from taking place.
8. The permanent residential occupation of the building and use of the site is for a greater period of the day than that associated with the storage use. The residential activity and noise from the appellant and his partner, however minimal, is in addition to noise from the retained use of the other part of the building and associated use of the land. As a result, the development has a small negative impact on the tranquillity of the area.
9. The rooflights to the building formed part of its original design and are limited in size. I acknowledge above that the residential use of the building results in its occupation for a greater extent than its use for storage. However, any lights within the dwelling will not be on at all hours of darkness and given this and the very limited number and size of windows, I do not find the limited additional light spill harmful to the tranquillity of the area or to the dark night sky.
10. Given that the appellant uses the other part of the building for storage and visited the site on a daily basis to make honey and attend to his bees prior to the residential use commencing, I do not find there to be a harmful or noticeable increase in vehicular movements accessing or exiting the site.
11. To conclude on this main issue, the development does not conserve and enhance the landscape and scenic beauty of the National Park. As a result, the development conflicts with Strategic Policies 1.1, 1.2, 1.5 and 2.6 of the Dartmoor Local Plan 2018-2036 (December 2021) (LP). Amongst other things, these seek to conserve and enhance the character, quality, tranquillity and natural beauty of the National Park and deliver good design. The proposal is also contrary to the Framework that seeks to conserve and enhance the landscape and scenic beauty in National Parks.

*Whether appropriate location*

12. Strategic Policy 1.1 of the LP states that development should not prejudice the statutory National Park purposes, and that development which complies with the policies in the LP will be considered consistent with the National Park purposes.
13. LP Strategic Policy 1.3 outlines the spatial principles for development. South Tawton is listed under Villages and Hamlets where limited development to meet identified needs of the settlement and its parish will be acceptable in principle.
14. LP Strategic Policy 3.5 specifically deals with housing in Villages and Hamlets. This states that new housing in Villages and Hamlets will be approved where one or more of the stated criteria apply. These criteria include development on small infill sites or previously developed land within the settlements, development of up to 3 dwellings for local needs custom, self-build housing or affordable housing on previously developed land, use of an existing building or a small infill plot or exceptionally, affordable housing on site within or adjoining the settlement and well related to its existing built form.
15. However, the site is detached from other dwellings and built form located a considerable distance from South Tawton, and even further from South Zeal, accessed by narrow winding lanes with no footpaths or lighting. The site is therefore outside, and not adjoining, the settlement and is in the countryside where occupiers are reliant upon the use of the car. As a result, and even if the development were to represent custom or self-build housing or affordable housing, it does not gain support from LP Strategic Policy 3.5. Furthermore, in relation to affordable housing, the development is not accompanied by an up-to-date housing needs assessment detailing a current need for affordable housing in the parish or adjoining parish as required by LP Strategic Policy 3.1.
16. The main parties have referred to LP Strategic Policy 2.8. Wording similar to that contained within the policy is within the first reason for refusal. This policy supports the conversion of redundant historic non-residential buildings in the open countryside. It further states that such buildings should be of a form, structure and history that is traditional within the context of Dartmoor's built heritage. Although I note that the form of the original building and its structure are not uncommon in a rural landscape, with the building designed originally to reflect a Victorian farm building, it is relatively new. As a result, for the purposes of the policy that seeks the conservation of historic non-residential buildings, I do not find that the building is historic, or has a history that is traditional within the context of Dartmoor's built heritage. As a result, the development does not gain support from Policy 2.8.
17. I acknowledge that paragraph 83 of the Framework supports housing where it will enhance or maintain the vitality of rural communities, support local services and that where there are groups of settlements, development in one village may support services in a village nearby. Nonetheless, the appeal site is located outside of a settlement and due to the small scale of the development, any benefit to local services or nearby villages will be very limited.
18. Paragraph 84 of the Framework supports the development of isolated homes in the countryside where development would re-use redundant or disused buildings and enhance its immediate setting. The building is located away from other buildings and the closest settlement and as such is isolated. However, as

I have found above that the development does not conserve or enhance the landscape and scenic beauty of the National Park, it does not enhance its immediate setting and as a result does not gain support under paragraph 84 of the Framework.

19. To conclude on this main issue, the development does not accord with the policies that allow for residential development. The appeal site is not therefore an appropriate location for housing, with particular regard to the local development strategy. As a result, the development is contrary to Strategic Policies 1.1, 1.2, 1.3, 3.1 and 3.5 of the LP. The development is also contrary to the Framework where it seeks to promote sustainable development in rural areas.

*The appellant's circumstances and other considerations*

20. The appellant was born locally and lives at the appeal dwelling with his partner to whom he provides care. The appellant has set out that his partner has complex health needs that are being met by living on site and advises that leaving the site would undoubtedly have a detrimental impact on her health. Indeed, the complex nature of his partners health condition and needs have been outlined in supplementary information, through a completed welfare form and corroborated by a letter from an NHS Senior Health Practitioner.
21. The appellant has further advised that finding alternative accommodation has been, and would be, difficult due to their low income, specific housing needs and being at the bottom of the housing list.
22. The Planning Practice Guidance (PPG) reiterates the well-established principle that planning permission runs with the land<sup>3</sup>. Where development would not normally be permitted, it may be justified on the basis of who would benefit from the permission, but only in exceptional circumstances.
23. I have had regard to the equalities implications and associated duties arising. Taking all of this evidence into account, I accept that the appellants partner has a clear and multi-layered need for accommodation in a detached and peaceful location that the appeal site offers. Furthermore, I accept that stress associated with leaving the appeal premises could be seriously detrimental to her health. I attach very significant weight to the benefits of the location that result from the development and the appellant's circumstances.
24. The location of the dwelling causes harm to the landscape and scenic beauty of the National Park in conflict with local and national policies. The proposal is also contrary to the local development strategy for the location of housing bringing it into conflict with the development plan as a whole.
25. However, I find that it has been demonstrated that the circumstances in this case are exceptional with the needs of the appellant and his partner attracting very significant weight. As a result, I am satisfied that the other material considerations in this case clearly outweigh the conflict with the development plan and the harm to the landscape and scenic beauty of the National Park to which I give great weight.

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<sup>3</sup> Paragraph: 015 Reference ID:21a-01520140306

## Conditions

26. I have had regard to the tests in the Framework in relation to conditions, and the planning conditions suggested by the Council and the appellant. As the development has already commenced, there is no need for the standard time condition. It is however necessary for a condition to confirm the approved plans in the interests of certainty.
27. In light of the justification of the appeal being based on the appellant's exceptional circumstances contrary to the development plan, a personal permission is necessary to restrict occupation of the dwelling to the appellant and his partner only. In relation to this, a condition is required to ensure that when the premises cease to be occupied by the appellant and his partner, the use ceases with all residential materials and equipment removed.
28. Further conditions are necessary to ensure that all external windows are constructed from timber, to ensure that no external lighting is installed and to remove permitted development rights for further extensions to the building or for the construction of other structures. These are all required in the interests of protecting the landscape and scenic beauty of the National Park.
29. Further conditions are proposed by the Council to ensure the submission of details to mitigate flood risk and foul drainage within three months of the date of permission due to the location of the parking, turning and access to the site falling within Flood Zones 2 and 3. However, the dwelling falls within Flood Zone 1 with the parking, turning and access to the site previously serving the agricultural building. As a result, the dwelling is not at risk of flooding and there is no greater risk of flooding from the parking, turning and access and the two conditions are not therefore necessary or reasonable.

## Conclusion

30. For the reasons given above I conclude that the appeal should be allowed.

*C Rose*

INSPECTOR

### **\*\*\*SCHEDULE OF CONDITIONS\*\*\***

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Drawing Number 001/277 As Proposed and Drawing Number BSF-1 Block location plan.
- 2) The occupation of the dwelling hereby permitted shall be carried on only by the following: Mr Sean MaCaffrey and Jenny Knode.
- 3) When the premises cease to be occupied by those named in condition 2, the use hereby permitted shall cease and all materials and equipment brought on to the premises in connection with the use shall be removed.
- 4) Notwithstanding the drawings hereby approved, all external windows in the development hereby permitted, shall be of timber construction and shall at all times thereafter be retained as timber framed windows.

- 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 material alterations to the external appearance of the building shall be carried out and no extension, building, enclosure, structure, erection, hard surface, swimming or other pool shall be constructed or erected in or around the curtilage of the dwelling hereby permitted, and no windows or roof lights other than those expressly authorised by this permission shall be created, formed or installed, without the prior written authorisation of the Local Planning Authority.
- 6) There shall be no external lighting installed or used in association with the development hereby approved.