

Appeal Decision

Site visit made on 9 September 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/J9497/W/24/3337257

Farnham Bros, Meavy Lane, Yelverton, Devon PL20 6AJ

- 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 K Farnham against the decision of Dartmoor National Park Authority.
 - The application Ref is 0113/23.
 - The development proposed is 5No. 3 Bed Terraced Housing units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is clear from the officer's report (OR) that there has been a typographical error within the Authorities decision where Policy P5.1 should have been referred to as Policy SP5.1. I have therefore assessed the appeal on this basis.

Main Issues

3. The main issues are:

- The effect of the proposal on Dartmoor National Park's (DNP) business and industry needs; and
- The effect of the proposal on biodiversity.

Reasons

Business and industry

4. The proposal would result in the loss of a commercial premises, consisting of buildings and a yard area, which I am told was previously utilised as a workshop and a builders' yard. The evidence before me indicates that the appeal site has been vacant for some time.
5. The appeal site is not identified within the Yelverton Settlement Profile (September 2019) (YSP) as an employment site, and it is put to me that in any case the YSP does not highlight the need to retain employment sites. However, Strategic Policy 5.1 (SP5.1) of the Dartmoor Local Plan 2018-2036

(December 2021) (LP) at section 4 requires that existing business and employment sites and premises will be retained for economic uses. The Policy further states that proposals involving the loss of existing employment sites and premises will be carefully assessed to ensure the National Park's business and industry needs would not be harmed by the proposal.

6. I observed that both residential and commercial uses surround the appeal site and that the access of the site onto Meavy Lane, due to its width and on-street parking, could result in challenging access for larger commercial vehicles.
7. However, there is no substantive evidence before me that the access has prevented the successful use of the appeal site for commercial operations, or indeed, the previous operation of the site as a builders' yard or workshop has resulted in any adverse harm to the living conditions of occupiers of nearby residential properties.
8. Although the appellant has had only one enquiry in the last four years in relation to a continued commercial use of the site, and states that there have been no enquiries in relation to a possible office or Class E (Commercial, Business and Service) use, this is perhaps unsurprising if it has not been actively marketed. Indeed, although LP Policy SP5.1 does not specifically require marketing, such an exercise would be beneficial to demonstrate any lack of commercial interest in the premises.
9. During my site visit I also visited nearby employment sites as suggested by the appellant. These sites consist of modern buildings away from residential properties and did appear to contain vacant units. However, my observations were a snapshot in time, and no evidence of vacancy rates are before me.
10. Furthermore, as opposed to the other sites, the appeal site is in close proximity to other services and facilities and public transport links near the 'forecourt' shopping area as identified within the YSP. This results in the location of the appeal site providing differing opportunities to potential business than that of other employment sites.
11. Moreover, even if the appeal site represents 6% of the overall area of renewal floorspace identified by the Authority as is put to me, and even taken in the context of other nearby commercial sites both within the boundaries of DNP and outside, the proposal still represents a loss of a business and employment site which could be actively utilised.
12. Consequently, to conclude, it has not been adequately demonstrated that the proposal would not harm the DNP's business and industry needs due to a reduction in commercial floorspace. The proposal would conflict with LP Policies SP1.1, SP1.2, SP5.1 and SP5.3. These policies seek, amongst other things, to support National Park purposes, deliver sustainable development and support and retain non-residential business and active uses in the DNP. The proposal would also conflict with the provisions of the National Planning Policy Framework (Framework) in relation to supporting economic growth and productivity, as well as advice within the English National Parks and the Broads UK Government Vision and Circular 2010 with regards maintaining thriving rural economies.

13. Although LP Policy SP1.5 is cited within the Authorities reasons for refusal, this Policy seeks to deliver good design. In this regard, the Authority have not raised any concerns with the effect of the proposal on the character and appearance of the area, and noting the design principles outlined within the Policy, I see no reason to disagree and find no conflict with LP Policy SP1.5.
14. LP Policies SP3.1 and SP3.3 are also cited within the reasons for refusal which seeks to meet housing need in the area, and I return to this matter below.

Biodiversity

15. LP Policy SP2.2 seeks to conserve and enhance Dartmoor's biodiversity and geodiversity whilst Policy SP2.3 requires, in developments involving 2 or more homes, there to be a 10% biodiversity net gain (BNG) in order to support the DNP's network of wildlife sites and priority habitats and maximise potential for other environmental gains.
16. The proposal is accompanied by a wildlife survey¹ (WS) which provides evidence of the existing biodiversity and habitat, as well as suggested mitigation and enhancement measures. These enhancement measures have been calculated utilising the proposed floorspace of the development, and enhancement features as outlined within LP table 2.3. Nevertheless, this does not go so far as to demonstrate that those enhancement measures, even if greater in quantity than that suggested within the LP, would succeed in providing a minimum of 10% BNG in comparison to its existing biodiversity value.
17. However, A Biodiversity Net Gain Assessment² (BNGA) has also been provided with the appeal submission. This assesses the impacts of the proposal on the BNG value of the site utilising the Natural England Small Sites Metric (Biodiversity Metric 4.0). It considers the ecological functionality of the site as a whole, pre and post-development.
18. The BNGA outlines that the appeal site currently provides 0.1930 habitat units and 0.0850 hedgerow units and therefore the existing habitats are of low ecological value. Given the proposed habitat retention, enhancement & creation, the BNGA demonstrates that a 31.20% BNG can be achieved for area habitats, and 31.04% for linear habitats within the appeal site boundary, subject to planning conditions with regard to implementation and future management of habitats.
19. Due to a small area of bramble scrub being lost, the metric trading rules have not been satisfied. However, given the nature of this small area as poor condition scrub encroachment, the provision of bat and bird boxes as outlined within the WS which have not been included within the calculation, but would nevertheless provide some additional gain, and the demonstrated increase in biodiversity overall, I find that BNG can be adequately demonstrated.
20. Consequently, I conclude that the proposal would result in sufficient net BNG. I therefore find that the proposal would conserve and enhance biodiversity. As such, it would accord with LP policies SP2.2 and SP2.3, the

¹ Butler Ecology – 7 February 2023

² Lakeway Ecological Consultancy -21 January 2024

aims of which are cited above. It would also accord with the provisions of the Framework, which sets out that decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, as well as advice within the English National Parks and the Broads UK Government Vision and Circular 2010 with regards conserving biodiversity.

Other Matters

21. Concerns have been raised in relation to the pre-application advice provided by the Authority. In particular, the appellant states that this did not raise any concerns regarding the loss of an employment site. This was subsequently one of the reasons for refusal. Although the advice was provided within a differing Policy context, it is not clear why this was not considered given the specific requirements of now superseded policies as outlined by the appellant. Nevertheless, pre-application advice is not binding on the Authority in determining later applications, and such advice does not alter the planning merits of the case, which I have considered on the basis of the evidence before me and a recent site visit.
22. LP Policies SP3.1 and SP3.3 seek to ensure housing need is met in the area and deliver affordable housing (AH). Although no substantive evidence of an overriding housing need in this location is before me, the OR outlines a potential requirement for an affordable housing contribution, subject to vacant building credit (VBC). The appeal is accompanied by a Unilateral Undertaking pursuant to Section 106 which secures an offsite financial contribution for the purposes of delivering AH in the Parish of Buckland Monachorum.
23. The appellant has provided a VBC AH calculation based on existing floor space. On the substantive evidence before me, the AH provision is reasonable, and I note it has not been disputed by the Authority. As such if the appeal were successful, there would be no conflict with LP policies 3.1 and SP3.3. However, due to the scale and scope of the proposal and contribution, the benefit of the AH contribution is modest.
24. The proposal would contribute to the supply of housing on previously developed land. The appeal site is also within the defined settlement boundary of Yelverton within easy walking distance of the local services and facilities, including public transport links and accords with some aspirations of the LP. The proposal would also provide a demonstrable BNG. However, these benefits would be moderated due to the scope and scale of the development.
25. The proposal would also help to support the construction industry during the short term, as well as further economic and social benefits as a result of the future occupation of both the dwellings and commercial units. However, these benefits would be reduced due to the loss of the existing employment use.
26. It is put to me that residential use would remove an existing use inconsistent with the proximity of nearby dwellings and reduce the use of the site access by large vehicles. However, I afford this only limited weight given the proposal itself would also result in vehicular movements and lack of substantive evidence of existing harmful effect on neighbouring occupiers living conditions.

Conclusion

27. For the reasons given above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR