

Appeal Decision

Site visit made on 24 June 2025

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

Appeal Ref: APP/J9497/W/25/3360791

Dartmoor Lodge, Ashburton, Devon TQ13 7JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Steve Field against the decision of Dartmoor National Park Authority.
- The application Ref 0404/24, dated 16 September 2024, was refused by notice dated 10 January 2025.
- The application sought planning permission for part retrospective application for demolition of outbuilding and replacement with single storey open air cafe area with covered servery without complying with a condition attached to planning permission Ref 0431/23, dated 13 September 2024.
- The condition in dispute is No 4 which states that: *"No music shall be played, and no amplified sound system shall be used, within the development hereby permitted, including the containers, seating area and exterior decking shown on 'Block Plan as Proposed', Drawing Number: 569-107A."*
- The reasons given for the condition is: *"In the interests of the protection of neighbouring residential amenities and the tranquillity of the site and surrounding area. This condition is imposed in accordance with Strategic Policy 1.1, 1.2, 1.5, 1.7, 2.1, 2.6 and 5.1 of the Dartmoor Local Plan 2018-2036."*

Decision

1. The appeal is allowed and planning permission is granted for demolition of outbuilding and replacement with single storey open air cafe area with covered servery at Dartmoor Lodge, Ashburton, Devon in accordance with the terms of the application, Ref 0404/24, and the plans submitted with it, subject to the conditions in the attached schedule.

Background and Main Issues

2. Dartmoor Lodge comprises a hotel premises with restaurant, bar and parking areas, near to Ashburton town. Planning permission was granted in September 2024¹ for an open-air cafe area with covered servery ("the original planning permission"), within its grounds, near to the hotel building. During my site visit, the cafe was trading but without any music output. I have however removed reference to "part retrospective" in my decision above, as it is not a form of development.
3. The appellant seeks to vary condition No 4 as set out above to allow music to be played, including by amplified means. The main issues are whether condition No 4 is reasonable and necessary and whether an amended condition allowing music to be played (including by amplified means) would safeguard the living conditions of nearby residents, with particular regard to noise and disturbance; and the effect on the natural beauty and tranquillity of the surrounding area within the Dartmoor National Park.

¹ National Park Authority Ref: 0431/23

Reasons

Living conditions

4. During my site visit, I could hear some birdsong, and I found noise levels to be generally low and typical of a rural area. I also heard a notable amount of traffic noise, and this noise was quieter towards the rear of the appeal site buildings, which suggests that its source was from the A38 dual carriageway. Whilst my visit was only a snapshot in time, my observations broadly correlate with those recorded at the 21 November 2024 evening site visit attended by the appellant's noise consultant and officers from Teignbridge District Council (TDC) and Dartmoor National Park Authority (DNPA), as set out in the main parties' evidence.
5. Following the above visit, on 22 November 2024 music was played within the café building at a level of 82db LAeq, for a period of 17 minutes and observed by the appellant's noise consultant. Simultaneous measurements were taken at the rear garden of Woodthorpe, which I agree forms the nearest sound sensitive residential location. Woodthorpe forms a row of residential properties beyond the appeal site. Their rear elevations and garden areas face the appeal site, with intervening shrubbery and undeveloped land.
6. The subsequent noise impact assessment² (NIA) includes the overall noise survey results between the evening of 21 November 2024 and the late morning of 23 November 2024, to establish the prevailing background sound levels. These noise survey results are presented within the NIA on a time graph, a noise model map and two histograms, including one for the period between 7pm to 9pm - the latest evening period when the cafe area is open. I have no reason to dispute that this latest evening period is when ambient noise levels in the area are typically at their quietest, when compared to the cafe's other opening hours.
7. The resulting background or ambient sound level for this later opening period is stated in the NIA as 42dB LA90. On this basis, the NIA recommends amplified music to be limited to a lower maximum noise level of 74 dB during each 15-minute interval period³. This would achieve 37 db LAeq, 15 min, as measured at the nearest sound sensitive residential location within Woodthorpe.
8. I accept that the LA90 noise level during the evening of 21 November was mainly below 40 dB. However, that period, as presented on the NIA's Figure 6 time graph, appears to extend beyond the cafe's latest opening time of 9pm. This graph also shows the LA90 level on the following evening (22 November) as being noticeably higher than the 21st, which may have been due to the subsequent morning period (23 November) of high wind and weather. Periods of significant high wind were however excluded from the NIA's overall analysis of the ambient noise level.
9. For the above reasons, I have found that the methodology applied in the NIA complies with the recognised British standard for assessing the impact of sound from commercial sources on residential receptors⁴.
10. In their consultation comments, TDC Environmental Health refer to lower recorded ambient sound levels than those as recorded in the NIA. I cannot give any

² ACT Acoustics – Ref 202408DLH - dated 05 December 2024.

³ LAeq, 15min

⁴ BS 4142:2014+A1:2019

significant weight to this, as there is no further evidence before me in respect of the location, conditions and time period of TDC's recordings.

11. I nonetheless accept that ambient noise levels can fluctuate due to factors that include weather conditions. If the prevailing ambient noise level were to be lower at 37 dB LA90 (the upper range purported to have been recorded by TDC), this would match the recommended sound level for the nearest noise sensitive location.
12. I have no reason to dispute that amplified music had been and would be clearly audible from Woodthorpe and other nearby residential properties. Noise can travel at significant distances in areas with relatively low background noise levels and varying topography. This does not however automatically translate to an adverse effect on residential living conditions.
13. In light of all the above, and bearing in mind that a +3 dB change in noise level would generally just be noticeable by the human ear, I conclude that it is possible to amend condition No 4 in a manner that would avoid a significant adverse effect on the living conditions of nearby residents.
14. I am satisfied that planning conditions can be imposed to mitigate and reduce to a minimum potential adverse impacts. Such conditions can control music noise and characteristics (including restricting bass frequencies), the specification and design details of a noise limiting device, and the operating hours limits as per the original planning permission.
15. The cafe's features and design, either as constructed or as approved under the original planning permission, allow for reduced built form enclosure and increased capacity during summer months, when neighbouring residents may be using their gardens and have their windows open. Conditions can nonetheless be worded in a manner to ensure that a sound level of 37 dB LAeq, 15 min at the nearest noise sensitive residential receptor would still have to be achieved. This may require a reduction in the recommended maximum music level of 74 dB LAeq, 15 min, depending on its specific location, including any amplified equipment.
16. DNPA and neighbouring residents have raised understandable concerns regarding previous noise issues and complaints in respect of amplified music, including DJs hosted at the appeal site. However, I see no reason why this would prevent DNPA from enforcing current and new planning conditions, if necessary. Reference is also made to a new seated "beer garden" to the rear of the main Dartmoor Lodge building, but that does not form part of the current appeal proposal.
17. The proposal does not include any specific entertainment events. It should also be borne in mind that the operative part of the original planning permission is for an open-air cafe area with covered servery, and allowing this appeal would not change this. Additionally, as per condition No 5, any future material change of use beyond a cafe/restaurant ancillary to Dartmoor Lodge would require additional planning permission. I therefore do not envisage that allowing amplified music at the cafe area would lead to significant additional noise from customer voices, including those consuming alcohol.
18. For the above reasons, I conclude that subject to conditions, the proposal complies with Policies 1.7 and 5.1 of the Dartmoor Local Plan 2018-2036 (DLP) (Adopted 2021). Collectively, these policies require, amongst other things, development proposals to not introduce levels of noise and vibration that would adversely affect

human health or quality of life, and tourism development to be of a scale and use appropriate for its location.

Dartmoor National Park

19. No additional operational development is proposed under this Section 73A application. The DLP however sets out the Special Qualities of Dartmoor National Park (DNP) as including tranquillity, where it is possible to find absolute peace, spiritual refreshment and opportunities for quiet reflection, escape and creativity.
20. Strategic Policies 2.1 and 2.6 of the DLP require, among other things, development to conserve tranquillity and respect the sense of remoteness of Dartmoor. Policy 5.1 of the DLP requires tourism development to, amongst other things, conserve and/or enhance Dartmoor's Special Qualities.
21. Supporting text to DLP Strategic Policy 2.6 sets out common characteristics of tranquillity, which include feeling close to nature and wildlife, feeling solitude and remoteness, hearing natural sounds and seeing unspoilt natural beauty.
22. Dartmoor Lodge is an established hotel premises, including an extensive car parking area. I found the surrounding landscape to be characterised by rolling hills, tree lines and wooded areas. As already set out in the previous main issue, I was able to hear some birdsong and a notable amount of traffic noise during my visit. I also found the appeal site to be near to and not remote from other development, including a petrol station and a car dealership.
23. It remains that the appeal site is within an area of predominant rural character. However, for the above reasons, its tranquillity level in visual or aural terms is not as significant as described above in the DLP.
24. The first statutory purpose of National Parks (NP) is to conserve and enhance their natural beauty, wildlife and cultural heritage. The second statutory purpose is to promote opportunities for the understanding and enjoyment of the special qualities of the NP by the public. Section 245 of the Levelling-up and Regeneration Act 2023 amends the duty on relevant authorities in respect of their functions which affect land in NPs, who now must "seek to further" their statutory purposes.
25. The appeal proposal involving music generation, including amplification, cannot be said to form an enhancement to existing tranquillity levels. I have nonetheless found that subject to appropriate conditions as already set out, the proposal would not harm the existing tranquillity level of the surrounding area within DNP. On this basis, allowing the appeal would not harm DNP's Special Qualities.

Other Matters

26. As I have found that harm to the existing tranquillity level of the surrounding area within DNP can be avoided, I am satisfied that allowing the appeal will not harm protected species and habitats. In the absence of any other identified harm, the existence of indoor facilities within Dartmoor Lodge for entertainment and musical activity does not amount to a valid planning reason to dismiss this appeal.

Conditions

27. I have considered DNPA's suggested conditions against the tests in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance,

and have amended their wording, where necessary. As the proposal is part-retrospective in nature, it is necessary to impose a condition (No 1) to confirm the approved plans. As operational development has already been implemented, I have deleted reference to the demolition plan. I have also amended the location plan reference to match that submitted with this appeal.

28. Condition No 2 of the original planning permission requires the cafe's Perspex sheeted roof and shutters to be replaced with a sedum roof and cedar or larch timber clad shutters. Having consulted the main parties on this matter, I have not amended this condition, and I have instead reimposed it.
29. This is because the NIA demonstrates that the approved elevations, as referred to above and in conditions Nos 1 and 2, are not in themselves necessary to achieve a noise limit of 37 db LAeq, 15 min at the nearest noise sensitive receptor. Condition No 2 was imposed by DNPA in the interests of the character and appearance of the area and the surrounding landscape⁵. Its compliance is a matter between DNPA and the appellant.
30. I have added an additional condition (No 3) in the interests of safeguarding living conditions of surrounding residents, as it controls noise levels and characteristics. Condition No 4 is also necessary in the interests of safeguarding the living conditions of surrounding residents, as it secures noise limiting details for the appeal site.
31. I have reimposed condition Nos 3, 5 and 6 of the original planning permission without amendment as condition Nos 5-7, in the interests of living conditions and the character and appearance of the area and surrounding landscape. Condition No 8 is reimposed with added clarification that any music or amplified sound emitted shall be limited to the hours of 12:00 and 21:00, to ensure that such noise does not occur during the more sensitive night time period, when many residents are asleep.

Conclusion

32. Strategic Policy 1.1 of the DLP sets out that development which complies with the other DLP policies is considered consistent with NP purposes. For the above reasons, amending Condition No 4 to allow music to be played (including by amplified means, and subject to other conditions) is in accordance with the development plan as a whole, and is thus consistent with NP purposes. This absence of harm also means that the proposal would facilitate a sustainable form of development having regard to DLP Strategic Policy 1.2 and the Framework.
33. The material considerations before me do not indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore allowed.

R Cahalane

INSPECTOR

⁵ As stated in the 0431/23 decision notice.

Schedule of Conditions

1. The development hereby approved shall be carried out strictly in accordance with the following approved plans:

Roof as Proposed - numbered 569-24A; 3D images - numbered 569-105; 3D images - numbered 569-106; Lighting Plan as Proposed - numbered 569-108B; Elevations as Proposed showing external lighting - numbered 569-109B; Ground Floor Plan as Proposed - numbered 569-101A; Elevations as Proposed - numbered 569-104A; Block Plan as Proposed - numbered 569-107A; Location Plan - numbered 0100031673

2. Notwithstanding the submitted details, within nine months from the date of this decision notice, the design changes shown on the approved plans shall be carried out in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. The design changes include:

- perspex sheet roof to be replaced with a sedum roof
- perspex shutters to be replaced with cedar or larch timber clad shutters

The development shall be maintained in accordance with the approved details thereafter.

3. The volume level of any music played within the approved open air cafe area, including by means of amplified sound system, shall at all times remain within the parameters defined within Section 7.2 of the noise impact assessment prepared by ACT Acoustics (Ref: 202408DLH, dated 05 December 2024); namely such noise shall not exceed 37 dB (LAeq15min) at the boundary of the nearest noise sensitive residential receptor. Subwoofers or bass-boosting equipment are not permitted at any time.
4. No music shall be played, and no amplified sound system shall be used within the approved open air cafe area (including the containers, seating area and exterior decking shown on 'Block Plan as Proposed' - Drawing Number: 569-107A) until specification and design details of a noise limiting device to serve this area is submitted to and agreed upon in writing by Dartmoor National Park Authority, and thereafter installed, retained and maintained in accordance with the agreed details. The agreed noise limiting device shall at all times ensure that all music and amplified sound emitted from this area complies with the parameters as defined within condition 3 above.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (, the development hereby permitted shall only be used as a cafe/restaurant ancillary to Dartmoor Lodge (Class E(b)) of the Town and Country Planning (Use Classes) Order 1987 (as amended)) and for no other purpose whatsoever.
6. No lighting other than that shown on the 'Lighting Plan as Proposed' Drawing Number: 569-108B, shall be installed within or on the development hereby permitted. All flood lights shall be motion activated on dusk till dawn sensors.
7. No trees, shrubs or hedges within the site which are shown as being planted or retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of

Dartmoor National Park Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the date of this decision shall be replaced with trees, shrubs or hedge plants of similar size and species unless the National Park Authority gives written consent to any variation.

8. The premises hereby permitted shall only be open for customers between the hours of 12:00 and 21:00 daily. Any music or amplified sound emitted shall also be limited to the hours of 12:00 and 21:00 daily.

*****End of Schedule*****