

DARTMOOR NATIONAL PARK AUTHORITY
DEVELOPMENT MANAGEMENT COMMITTEE

Friday 30 July 2021

Present: A Cooper, W Dracup, G Gribble, P Harper, G Hill, J McInnes, S Morgan, J Nutley, N Oakley, M Renders, L Samuel, P Sanders, P Smerdon, P Vogel, D Webber, P Woods

Officers: J Aven, Deputy Head of Development Management
C Hart, Head of Development Management
P Twamley, Planning Officer
J Young, Solicitor (acting on behalf of Devon County Council)

Apologies: D Moyse
C Pannell
D Thomas

The Chairman welcomed Mr Webber on his return to duties. He also welcomed the registered speakers, Mrs Shewan, Independent Person and Phil Townsend, DCC Highways Authority. He advised that the meeting was available to the public via audio livestream.

Mr Dracup joined the meeting.

1453 Declarations of Interests and Contact

Members agreed to declare those interests set out in the matrix attached to the Agenda (Membership of other Councils).

Mr Cooper, Mr Dracup, Mrs Oakley, Mr Renders, Mr Smerdon and Miss Woods declared a personal interest, due to having received email communication in Item 1 – Conversion of barn to create venue providing café, cycle hire, bike workshops and area for courses – Tyrwhitt's Wharf, Yelverton.

Mr Sanders declared a personal interest, due to having received email communication and having telephone communication with the registered speakers in Item 1 – Conversion of barn to create venue providing café, cycle hire, bike workshops and area for courses – Tyrwhitt's Wharf, Yelverton.

1454 Minutes of Meeting held on 25 June 2021

Save for the amendment detailed below, the minutes of the meeting held on 25 June 2021 were AGREED as a true record.

Page 4 – Item 3 – 0210/21 – ‘... two windows and calls...’ be amended to read ‘... two windows and cills...’.

1455 Items Requiring Urgent Attention

None.

1456 Site Inspections

Members received the report of the Head of Development Management (NPA/DM/21/006).

Item 1 – Conversion of barn to create venue providing café, cycle hire, bike workshops and area for courses – Tyrwhitt's Wharf, Yelverton

Speakers: Cllr Cunningham, Buckland Monachorum Parish Council
Mr Staniforth, Objector
Mr Townsend, Devon County Council Highways Officer

The Case Officer reported that the principal use of the barn would be a not for profit, CIC (Community Interest Company) providing cycling facilities and services as a community interest operation providing cycle hire (to include specialist bikes suitable for less able people – adapted E-bikes etc), bike workshops and courses for individuals, school groups and community groups. It was also proposed to have a small internal café being ancillary to the primary enterprise of providing accessibility to cycling for all.

He advised members that the barn was referred to as a wharf and was built in the early 1820's to serve as a halfway point on the Princetown to Sutton Harbour tramway. It served as a staging point for change over of horses. The building would be conserved by the development including a new natural slate roof and reinstatement of original hardwood timber windows and the walls of the barn would remain exposed stone and timber. The chimney would be retained to house the flue for the wood burning stove.

He informed Members that a significant number of both objections against and support for the scheme had been received. Objections included:

- Concerns that the waste water management is not sufficient
- Cyclist numbers already too high and behaviour already a concern
- Litter management/café adding potential litter to local area
- Pressure on already busy car park/parking on verges
- Competition for local businesses and presence of similar services in Yelverton
- Concern that future use could change to primary use as a café
- Impact on heritage of the building
- Impact on ecology
- Highways safety
- Footpath safety for pedestrians
- The proposal bringing more people to the moors
- Erosion of peace and tranquillity
- Impact on the golf course
- Emergency service access compromised by increased numbers
- Impact on the character of Clearbrook

Support for the scheme included:

- Appropriate conservation of the heritage asset
- Positive contribution to the local community
- A real enhancement to the cycling infrastructure of the area
- Positive environmental impact – more people on bikes
- Convenient for a refreshment stop
- Bike rental availability
- Good location bike repair service
- Very accessible location
- Promoting visitors to the area
- Great hub for cyclists to meet up
- Benefits of a community facility
- More bike use/less cars/less pollution
- Would bring more money to the area
- Encourages healthy lifestyles/improved mental health
- Allows less able/active/lower socio economic groups to engage with cycling
- Great resource for local schools and pupils alike

He confirmed that Officers had considered all material points and had sought to ensure that the potential public benefits of the scheme were appropriately balanced against any potential harm.

He advised that, with regards to ecology, the direct and indirect impacts of the proposed cycle hub were deemed negligible on protected and priority species. A condition was included to ensure that no works would take place during the bird nesting season. The Authority's Archaeologist had no objection and a condition requiring an archaeological watching brief had been included for all groundworks.

He confirmed that the site had no direct access from the highway or off-street car parking. The Highways Authority had accepted that the facility would predominantly cater for people already in the area rather than attract specific additional vehicle movements and there were no objections to the proposals from a highway safety point of view.

Members were advised that additional information regarding the proposal and the heritage status of the building had been received. Historic England were considering whether the wharf building had special architectural or historic interest. The assessment of the building would likely take until the end of August into early September and at that point the owners of the property would be informed of the outcome. If the building were to be listed, the Applicant would be required to submit a further application for Listed Building consent. Notwithstanding the status of the listing assessment, the building was already recognised as an important local heritage asset and the Authority's recommendation was appropriately informed through consultation with the Authority's Building Conservation Officer. The outstanding listing assessment would not prevent Members from determining the application presented.

In relation to the management of waste water and effluent on site, the Environment Agency had contacted the Authority to advise that the discharge to ground would exceed the volumes permitted without the requirement for a permit. He advised that

the Applicant had stated that the discharge to ground quoted was an error on their submission and had subsequently provided updated figures within those permitted levels. Officers felt it appropriate to include an additional condition to ensure that the management of waste and foul water was appropriately considered prior to installation. The additional recommended condition was described as follows:

'Prior to installation of the package treatment plant, water table and percolation tests shall be carried out. An assessment of the suitability of the proposed package treatment plant, with regard to and including the water table and percolation test results, and detail on the proposed discharge to ground, shall be submitted to the Local Planning Authority for approval in consultation with the Environment Agency. Prior to the use of the building as approved, the agreed package treatment plant shall be installed, and thereafter maintained in perpetuity. Upon becoming redundant, the package treatment plant and any redundant pipework shall be removed, and the land shall be reinstated to its former state.'

Members were also advised that in addition, officers recommended that Condition 3 as included on page 8 of the report was revised to remove reference to Class E (C) (iii) and refer only to Class E in its entirety. This was recommended to limit future use of the building to the proposed use only. Officers also recommended that Condition 7 was updated to allow evaluation of any small scale mobile solar panel provision required in support of the 12v system.

The revised Conditions recommended were:

Condition 3 - The premises shall only be used as a cycle hub for bicycle rental and bicycle related activity centre and for no other purpose including any other use specified in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any Order revoking and re-enacting that Order.

Condition 7 - Notwithstanding the details submitted, full details of the external landscape works, which shall include, levels, details of all seating, cycle racks, solar panel, and any hard surfacing, shall be submitted to and approved by the Local Planning Authority in writing. The external landscaping shall thereafter be retained as agreed by the Local Planning Authority.

The Case Officer concluded that the proposed works facilitated a viable re-use of an important non-designated heritage asset. The intended use and proposed enhancement works were compatible with the historic importance of the building and complemented the adjacent cycleway. In this location, the level of activity would be commensurate with the existing patterns of use and would not unduly impact on the amenity of nearby residents. The proposal was considered to be in accordance with planning policy and was recommended for approval.

Mr Townsend, Highways Officer confirmed that the site did not have direct vehicle access or associated parking. Parking was already provided in the adjoining car park which was already extensively used and on balance the proposal would cater for current users in the area and would not attract additional use. He stated that no

injury or collisions had occurred near the site and confirmed that there were no objections or concerns from a highway safety point of view.

Cllr Cunningham informed Members that he was speaking as a Councillor for Buckland Monachorum Parish Council and a resident of Clearbrook. The Council considered the development to be in the wrong location and unsuitable for the area of moorland. There were already parking issues in the village and those would be exacerbated if the development was allowed. He advised that on busy days cars had to be parked on driveways to prevent being blocked in by visitor parking. He advised that the Parish Council did not support the Highway Authority accepting that the development would only cater for people already in the area, rather than attracting additional vehicle movements. The Parish Council did support people accessing local villages such as Clearbrook, Leg O Mutton and Yelverton and in Yelverton bike racks had been put in, the local toilets had been taken over and a provision made for drinking water and benches to sit on. He advised that the Parish Council had been in discussion with Maristow Estate to take responsibility for the two car parks at Yelverton and Leg O Mutton and that the Council had identified Yelverton as a sustainable cycling hub that offers all the services.

Mr Staniforth felt that the toilets would be unnecessary as the Applicant had advised, at the site visit, that there would be no cooking and food would only consist of a few cakes and snacks. He stated that the plans showed the facility for at least 20 covers, equipment included a four ring hob and the Applicant is a registered restaurateur with Companies House. He was concerned that the Chair of the commoners had not been consulted and considered that approval would result in the only café on common land. He added that the proposal would be on the nearest common land to the largest city in Devon and there are advanced plans for 2000 houses two miles from the café which is bigger than Yelverton. He felt it was unscientific speculation to say a café would cater for people already in the area or 80% of existing users and there was no basis for this assertion. He stated that there was evidence a café would result in at least a 200% increase. He considered that more visitors congregating on the site would cause negative impacts on priority habitat and species. He stated that the site is lowland heath which had not been mentioned in any ecology reports and advised that Devon Wildlife Trust had said that the ecology reports did not provide sufficient evidence to satisfy the requirements of the National Planning Policy Framework. He expressed concern that there would be no vehicle access which would mean that the bike trailer, being used for servicing and supplies, would be travelling across the common land with animals in all weathers. He further stated that the building was not falling down and recent photographs had showed that, Historic England had inspected the building and noted C20 wooden supports and photographs from 1963 showed the characteristic roofline. He felt the proposal would lose the integrity of the building, external changes would include pipework and solar panels. He considered that the sewerage treatment system and crate percolation facility did not comply with EA rules and would not work as the area becomes flooded. He advised that COR3 had context that stated: *'preventing development will be essential where it is isolated or sporadic, or that reduces the feeling of openness.'* He asked Members to refuse the application as it represented commercialisation outside a settlement and on common land. It would be inappropriate and unjustified and would have an adverse impact on the special quality of the National Park contrary to the National Park

Development Plan and in particular policies COR1, 2, 3, 4, 5, 11, 12, 14, 18 and 19; DMD 1b, 5, 6 and 31 and the National Policy Planning Framework 2021.

Members raised concerns in relation to the impact on the moor landscape, lack of parking, increased activity in attracting additional use, disposal of waste, the proposals main use would be more of a café provision and the site would be unsuitable. Concern was also expressed regarding the close proximity to the golf course as it was felt that the safety aspect had not been properly addressed.

The Case Officer advised Members that the Applicant had approached Biffa to provide a contract regarding the removal of the waste. Collections would not be made from the site as the café operatives would remove the trade waste from site to an agreed business park. The café would be an incidental ancillary use to the main use proposed and the Legal Representative confirmed that ancillary use would be acceptable to the main use.

The Head of Development Management advised Members that they needed to concentrate on the proposal as set out before them and Condition 3 would restrict the use of the building. He also confirmed that the land is owned by the Maristow Estate and leased to the nearby golf club.

Members raised additional concerns regarding the future use of the barn if the business were not viable, lack of communication with the Commoners' Council and setting a precedent in bringing the building back into use.

The Case Officer advised that Members should not consider any future use of the building. The pending heritage assessment did not directly affect the Committee's ability to determine this application. Condition 7 would allow the Authority to consider the details of the external landscape works and the Authority would consult with the Commoners' Council.

The Head of Development Management advised that Members would not be changing any rights of commoners/graziers nor would their enjoyment be unduly affected by the application to be determined. He reminded Members that they needed to focus on the planning merits of the case in coming to a decision.

Mr Sanders proposed the recommendation, which was seconded by Mr McInnes.

Members raised further concerns relating to the how the building will be maintained, use of roof materials and Historic England's outstanding listing assessment.

Mr McInnes advised that, whilst Members had concerns, they needed to be clear about reasons to refuse. He stated that the Highways Authority had no objections, the building was not being changed and it was sited right next to a national cycle track.

The Case Officer reported that the proposed conditions covered roof materials and the application proposed natural slates and timbers. The current ridgeline is in a

state of collapse and whilst the repairs would create a rise to the ridgeline, this would not be significant.

Mr Sanders reminded Members of the need to consider the proposal before them and advised that if the building were to be listed, the Applicant would be required to submit an application for Listed Building consent.

Some Members questioned that potentially the café turnover could be greater than that of the cycle hub and asked if and how the use of the building could be monitored.

Members were advised that the proposal was not for profit use and whilst it would not be out of the question to ask to see financial records, a condition could not be added in relation to the monitoring of the building.

Mr Sanders reminded Members that the recommendation was to grant permission, subject to a change to Condition 3, an addition to Condition 7 and an additional Condition 11.

The proposal was put to the vote but was **NOT CARRIED**.

Members were reminded that if they were considering a decision to refuse planning permission this should be based on material planning grounds.

Members considered that the proposal be refused pending further clarification from Historic England, the detrimental impact on the landscape and lack of consultation with the Commoners' Council.

Members were advised that a refusal could not be recommended on the outstanding heritage assessment from Historic England, or the lack of direct consultation with the Commoners' Council and that there would be a requirement for Members to demonstrate, with policy references, as to why the application would be recommended for refusal.

In the absence of an alternative motion, the Head of Development Management informed Members that under Standing Orders he wished to invoke deferral to the next meeting.

Mr Gribble proposed that the Head of Development Management DEFER the application, which was seconded by Mr Renders.

RESOLVED:

That the application be DEFERRED until the next meeting.

1457 Monitoring and Enforcement

Members received the report of the Head of Development Management (NPA/DM/21/007)

Item 1 – ENF/0077/19 – Unauthorised construction and residential use of timber building - Land north of Green Bridge, Dunsford

The Case Officer reported that the building was located in a 1.3ha meadow, approximately 750m east of the centre of Dunsford and was bounded to the east by the B3212 Moretonhampstead to Exeter road and to the west by the Reedy Brook. The boundary of the National Park follows the western edge of the B3212.

He advised Members that concerns were first raised with the Authority in May 2019 in respect of the siting of two lorry bodies and a shipping container on the land. It was also noted at that time that stone had been brought onto the land and used to create a hardstanding from the gateway. The landowner had confirmed that the lorry bodies and container were there on a temporary basis to store his possessions while he was changing home and would be removed.

In March 2020, further concerns were raised in respect of the laying out of foundations on the land. The landowner was again contacted and had stated that it was for a small building to house equipment relating to the cutting and storage of logs. He was advised that planning permission would be required to retain any building on the land. Whilst both the lorry bodies and container had been removed from the land, no planning application had been received for the building.

Members were informed that a new hard surfaced track had been constructed from the gate up to the domestic style wooden cabin. The building measured approximately 6m x 7m with a pitched roof of about 2.5m to 3m in height. The cabin was constructed with horizontal interlocking timbers, with a grey metal roof and sits on a concrete pad. There are windows in each elevation and a set of sliding doors in the south elevation.

A site visit in December 2020 confirmed that the landowner had moved into the building and was living there. Officers noted a bed and a kitchen inside the building but had been unable to confirm what sanitary facilities were available. However, the building was capable of and was being used for residential purposes and was clearly contrary to several Development Plan policies.

Members were informed that the service of an Enforcement Notice requiring the unauthorised residential use to cease would represent a serious interference with Human Rights, however, the courts had held that provided a balanced and proportionate approach was taken, having regard to all relevant considerations, the UK planning system (including the enforcement process) was not incompatible with the Human Rights Act.

The Case Officer reported that Officers had also taken into consideration the Equality Act 2010 as there was a reason to believe that the landowner had a protected characteristic recognised by the Act. The Act required the Authority to take account of people's disabilities and in this case, officers had to observe that the landowner used a wheelchair. Attempts to engage with the individual however had been unsuccessful. The landowner had been provided with welfare needs

assessment forms but had declined to return them. In the absence of detailed information concerning the needs of the individual, officers had considered how the proposed enforcement measures could affect him and what could be reasonably done to mitigate this.

Officers also considered that the usual compliance period should be extended from the usual 6 months to 12 months to allow more time for the landowner to find alternative living accommodation appropriate to his needs and if Members agreed the recommendation, officers would notify the local housing team accordingly.

The Case Officer updated Members that the Parish Council had confirmed that they had nothing to add. He also confirmed that the Authority would contact the District Council in relation to welfare needs.

The Case officer sought authorisation from Members to initiate the appropriate legal action to secure the cessation of the residential use of the land, and the removal of the building and the hard surface from the land.

Mr Harper declared a pecuniary interest due to having sold the landowner a large amount of timber and withdrew from voting.

Mr Sanders proposed the recommendation, which was seconded by Mr McInnes.

RESOLVED:

That the appropriate legal action be authorised to secure:

- (i) the cessation of the residential use of the land,
- (ii) the removal of the building from the land, and
- (iii) the removal of the hard standing.

1458 Appointment of Site Inspection Panel and Arrangements for Site Visits

None required.