

DARTMOOR NATIONAL PARK AUTHORITY
DEVELOPMENT MANAGEMENT COMMITTEE

Friday 8 January 2021

Present: K Ball, A Cooper, W Dracup, G Gribble, P Harper, G Hill,
J McInnes, S Morgan, D Moyse, J Nutley, N Oakley, C Pannell,
M Renders, P Sanders, P Smerdon, P Vogel, P Woods

Officers: L James, Solicitor (acting on behalf of Devon County Council)
C Hart, Head of Development Management
N White, Monitoring Officer

Apologies: S Barker, D Webber

The Chairman welcomed members of the public, Catherine Shewan, Independent Person and Laura James, Legal Representative.

Members were reminded that when voting consistent language should be used i.e.,
For the motion, Against the motion or Abstain

1437 Minutes of the Meeting held on Friday 4 December 2020

Save for the amendments as detailed below, the minutes of the meeting held on Friday 8 December 2020 were agreed and signed as a correct record.

With regard to **Item 1** (commencing Page 1) – **0348/15** - Extension to the working plan area of the existing active quarry – Yennadon Quarry, Iron Mine Lane, Dousland, amendments as follows:

Approved Conditions:

Condition 1 to read: “...with approved drawing number 7397-RP-20-R1 ...”

Condition 2 to read “... with the approved drawings numbered: 7397-FIG1-P1 received 7 July 2015, 7397-PA/01-P1 received 14 July 2015, and 7397-RP-15-R1, 7397-RP-16-R1, 7397-RP-17-R1, 7397-RP-18-R1, 7397-RP-19-R1, 7397-RP-20-R1 received 24 October 2016.”

Condition 6 to read “... application site shall not exceed 7,500 tonnes ...”.

Condition 15 to read “... with the approved drawing numbered 7397-RP-20-R1, “.

Condition 29 to read “... on approved drawing number 7397-PA/01-P1 ...”.I

Condition 35 to read “... approved drawing numbered 7397-RP-15-R1 ...”.

Item 2 -0416/20 (Page 12) – 2nd paragraph, for clarification - 4th sentence to read “... an appeal was also dismissed on the adjoining field, adjacent to the access to the site ...”

Page 13 – 2nd paragraph to read: “...The Chairman asked Mr Davis if he could explain ...” and “Mr Davis advised that he had departed from the family farm as he wanted to take a different approach to farming...”.

Miss Moyle stated that she would prefer short minutes which only recorded decisions and reasons. If the meeting proceedings are to continue to be minuted in the current format she would prefer to see more comments regarding all aspects of discussions. The Chairman asked officers to take note of Miss Moyle’s comments for consideration; the officers to bring the issue back to a future committee should officers determine that changes are to be made in the future.

1438 Declarations of Interest and Contact

Mr Harper declared a personal interest in Item 1 – ENF/0165/20 The Sheepshed and The Old Parlour, Robertsacre, Bridford, due to the owners being close neighbours.

1439 Matters Requiring Urgent Attention

The Chairman asked the Monitoring Officer to remind Members, who are minded to declare an interest in the planning application 0322/16 – Linhay Hill Quarry, Ashburton, at the Development Management Committee on Friday 15 January 2021, of what they should do. The Monitoring Officer asked Members to ensure that they attended the beginning of the meeting on 15 January 2021 and declare their interest for the record, even if they do not intend to take part in the discussions or vote, rather than simply tender their apologies.

The Chairman stated the Mr Nutley had already send his apologies as he has to attend a meeting at Teignbridge District Council. He does, however, also have an interest in the application and has submitted an email to this effect which the Chairman will read at the meeting.

Members were updated regarding the agenda papers for this committee. The Case Officer confirmed that, with the exception of the possibility of minor changes to the S106 Draft Heads of Terms, the papers they will receive will be the complete and final version.

The Chairman advised Members that he had agreed that any speakers registering to speak would be offered a total of six minutes each, rather than the usual three. He added that he has also agreed that if any party felt that it needed to have technical expertise on hand to answer any questions, this would be permitted. This would be on the strict understanding that the time would not be used to promote their cause, rather purely to answer specific

questions. The Monitoring Officer confirmed that these permissions were within the Chairman's powers of discretion.

1440 Monitoring and Enforcement

Members received the report of the Head of Development Management (NPA/DM/21/001).

Item 1 – ENF/0165/20 – Construction and use of two unauthorised dwellinghouses, Building known as The Sheepshed and The Old Parlour, Robertsacre, Bridford, EX6 7HH.

The Case Officer advised Members that the case before Members concerns the construction and use of a building as two unauthorised dwellinghouses, situated at Robertsacre Farm, just off the Teign Valley Road, south of Dunsford and in the open countryside. The holding consists of the main residence and a range of outbuildings. An application for a Certificate of Lawful Use was recently refused and was determined prior to this case being considered.

The building was originally for agricultural use. The Devon Building Control Partnership has been involved in this development. They have informed officers that the front wall has been completely rebuilt from the ground up and raised to accommodate the first floor of the building. The roof over both units has also been replaced.

The building is believed to be substantially on the original footprint, but the extent of works that have taken place extend to a new building and not a conversion. Whilst the evidence indicates that it is probable that the works took place in excess of four years ago, it is considered that the works were undertaken to facilitate the unauthorised use of the land, therefore, the works and the use of the building as two dwellinghouses is not immune from enforcement action.

The development has resulted in two open market dwellings, in an unsustainable location in the open countryside, which is contrary to policy. Officers feel that it is therefore appropriate for legal action to be taken.

The Case Officer advised that the recommendation has been amended slightly. He requested that, having taken legal advice, the first sentence be amended to read:

Recommendation: *“That the appropriate legal action be authorised to:*

- (i) Secure the cessation of the residential use of the Building/s; and*
- (ii) Secure the removal of the unauthorised building works to restore the building to its previous form and design, including the removal of the first floor,*

additional openings, glazing, rooflights and flue pipes.”

Upon the request of the Chairman, Mrs James provided the rationale for the amendment to the recommendation and the removal of the phrase *“That subject to the consideration of any comments from the Parish Council ...”*. She advised that, in her view, it needs to be made very clear that the Parish Council has no input into the decision making process. Members determine the outcome of any application before them; it is not for any other outside body to take part in that process.

Should the Parish Council have any material evidence that related to the application then it would be able to provide that to officers in the usual way.

The Chairman advised that he, and officers, were aware that Mr Roberts senior passed away approximately six weeks ago. He had been ill for some time; discussions had taken place predominantly with Mrs Roberts. The fact that the case was before Members today was due to the time constraints that the Authority was required to work under. In no way was it due to the Authority being unfeeling.

The Case Officer firstly advised that a response had been received from the Parish Council; however, it has no bearing on the case before Members as the Council essentially support the recommendation.

With regard to the four and the 10 year rule, the Case Officer clarified as follows:

Under the Planning Regulations there are two rules which apply when considering enforcement cases and, more particularly, whether a development has become immune to enforcement action through the passage of time.

The four year rule – if no legal action has been taken within four years with regard to any building operations, building works, or for the change of use to a building to a single dwellinghouse, those works and the use becomes immune to enforcement action.

The 10 year rule – applies to any other change of use of land or buildings, or breaches of conditions. Again, if no action is taken within 10 years then those uses and conditions will become immune to enforcement action.

In this particular case, whilst officers accept that the works and the use has taken place over more than four years, the extent of the works that have taken place essentially constitutes the construction of a new building rather than a change of use of an existing building. The works have been completed less than 10 years ago and, therefore, the 10 year rule applies in this situation.

He confirmed that officers were aware of the sad news of Mr Roberts’ passing. Many discussions have taken place with his son and daughter-in-law

over this matter due to the fact that he was unwell. This was done at the family's request. There was a long history relating to this site. Time constraints in this matter have resulted in the case coming before Members, albeit under unfortunate circumstances.

A Member referred to paragraph 4.6.3 of the report and asked whether, since 1 January 2021, the European Convention on Human Rights still applied. Mrs James advised that although the Human Rights Act is derived from European law, it continues to be enshrined in UK legislation and, therefore, does apply.

In response to a Member query, the Case Officer confirmed that the applicants could make a planning application in respect of the development and had been advised that they could do so. Officers have discussed possible alternative uses of the building with the owners and it is still possible for a potential application in the future.

Essentially, the case before Members is for the resolution of a breach of planning control. The only way this can be done is by securing the cessation of that use and the unauthorised works. The owners are able to make a planning application, or indeed a retrospective application for the works – should this be done, the application would supersede any legal action which may be agreed today.

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

RESOLVED: Members AGREED the appropriate legal action be taken to:

- (i) Secure the cessation of the residential use of the Building/s; and
- (ii) Secure the removal of the unauthorised building works to restore the building to its previous form and design, including the removal of the first floor, additional openings, glazing, rooflights and flue pipes.”