



Appeal Decision

Site visit made on 4 May 2021

by **Helen Heward BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 May 2021

Appeal Ref: APP/X1118/W/21/3269389

Mockham Down Farm, Bratton Fleming, Barnstaple, Devon EX32 7LQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr C Burridge against the decision of North Devon District Council.
 - The application Ref 72055, dated 25 August 2020, was refused by notice dated 11 November 2020.
 - The development proposed is described as “*the siting of 4 holiday lodges (2 lodges in situ), conversion and change of use of mixed-use building to a holiday unit and associated works*”.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application form states that development has started. A hardcore track has been laid and lodges 1 and 2 are in place. Therefore, permission for part of the development is sought retrospectively. Section 79(1)(b) of the Town and Country Planning Act 1990 as amended enables me to deal with the application as if had been made to me ‘in the first instance’.
3. The Council advise that a further structure has been shown on the proposed plans and referred to as cabin. For the avoidance of doubt it does not form part of the development proposed that I have considered in this decision.
4. At appeal the Appellant submitted additional drawings 643 31 rev A Barn As Proposed and 643 11 rev A Barn As Existing, and a Mockham Down protected species report January 2021.
5. These documents were included when the appeal was lodged. The Council’s appeal statement addresses the new information and notes that the Appellant’s [appeal] submission does not introduce any new substantive evidence or information and that the appeal has been accompanied by a Protected Species Assessment dated January 2021. I am satisfied that no party would be prejudiced by my accepting the information and I have determined the appeal on this basis.

Main Issue

6. The ‘Camp on Mockham Down’ is a Scheduled Ancient Monument (the Monument); ancient monument record list entry No. 1002534. The Council does not allege that the scheme would cause physical change to the Scheduled

Monument or cause direct harm to its evidential and historical values in that way.

7. The main issue is the effect of the development upon the setting and significance of the Monument.

Reasons

8. Sites designated under the Ancient Monuments and Archaeological Areas Act 1979 are of national importance. The reasons for designation of the Monument and the description given in the list entry are:

"slight univallate hillforts are defined as enclosures of various shapes, generally between 1ha and 10ha in size, situated on or close to hilltops and defined by a single line of earthworks, the scale of which is relatively small. They date to between the Late Bronze Age and Early Iron Age (eighth – fifth centuries BC), the majority being used for 150 to 200 years prior to their abandonment or reconstruction. Slight univallate hillforts have generally been interpreted as stock enclosures, redistribution centres, places of refuge and permanent settlements. The earthworks generally include a rampart, narrow level berm, external ditch and counterscarp bank, while access to the interior is usually provided by entrances comprising either simple gaps in the earthwork or an inturned rampart. Slight univallate hillforts are rare nationally, although in Devon they comprise one of the major classes of hillfort. Slight univallate hillforts are important for understanding the transition between Bronze Age and Iron Age communities.

Despite being cut by a quarry the slight univallate hillfort on Mockham Down survives comparatively well and will contain important archaeological and environmental evidence relating to its construction, use and landscape context. Furthermore, this hillfort forms part of a discrete cluster of similar monuments and together they will provide a valuable insight into life in the Iron Age in this part of Devon.

The monument includes a slight univallate hillfort on the summit of a prominent ridge known as Mockham Down which forms the watershed between two tributaries to the River Yeo. The hillfort survives as an oval enclosure measuring up to 145m long by 119m wide internally, defined by a single rampart and ditch. It has simple gap entrances to the east and west. Two other nearby enclosures which occupy the same ridge are the subject of separate scheduling."

9. Scheduled Monuments are designated heritage assets. Paragraph 184 of the National Planning Policy Framework (Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
10. Framework Paragraph 193 explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 adds that the significance of a heritage asset can be harmed or lost through development within its setting. Advice in

the Framework is clear that heritage assets are irreplaceable, and any harm or loss should require clear and convincing justification.

11. The Landscape Character Assessment for North Devon & Torridge (November 2010, the 'LCA') identifies the Camp as falling within landscape character type ('LCT') '2D, Moorland Edge Slopes'. LCT 2D describes 'long distance views from hill summits', and the presence of Bronze and Iron Age barrows and hillforts set in commanding positions in the landscape.
12. The Monument is a hilltop hillfort sited in a prominent elevated position in order to command wide views and be highly visible in its contemporary landscape. In the wider landscape there are two other monuments to the west. All three are located on high ground overlooking the valley of a tributary of the River Yeo. Both the Camp on Mockham Down and Stoke/Beara Castle are situated on hilltops and intervisibility has been observed.
13. The association of closely located hillforts and hillslope enclosures is a theme on the edge of the south west uplands of Dartmoor and Exmoor. These hillforts could have had varying functions, including a relationship between a society based on family groups situated above steep river valleys. The Appellant reports that it has been speculated that in this context incomplete defences such as have been found at Mockham Down are not untypical and what was visible of the earthworks being sufficient to give signs of strength
14. The surroundings in which an asset is appreciated contribute to its significance. The Devon Historic Landscape Characterisation project characterised the land within the Monument, and the surrounding land to the south and east, as 'modern enclosures' that have replaced earlier woodland. Cartographic evidence shows the hilltop variously wooded since the time of an 1842 Tithe map. The northern third of the interior and northwest corner defences have been disturbed by quarrying.
15. There is a former quarry in the northern part of the Monument and a variety of buildings have been constructed and field boundaries removed. There is woodland to the north and west of the Monument, and trees around the earthworks and historic field boundary to the south. The character of the present-day setting influences how the Monument is appreciated. Trees and woodland compromise the ability to readily appreciate some open views that would have defined the landscape setting of the Monument prior to enclosure.
16. However, the underlying landform and topography has not changed. The earthworks on the southern side survive comparatively undisturbed. There is little built form to the south of the Monument and tree cover on the south side is much more limited. The open rural setting of the hillfort is largely retained in this direction.
17. Site plan 632 20 Rev B shows the building to be converted and the four lodges set out across the appeal site with spaces between. The red line area forms part of a larger field owned by the Appellant. The site plan shows the northern boundary of this field directly adjoins the Monument. On my site visit I found few characteristics to distinguish the 'red' and the 'blue' land. Cartographic evidence dating from the tithe map of 1842 provides a picture over time of the land of the appeal site forming part of a larger unit of land including the Monument. The Appellant's Heritage Statement, at paragraph 5.15 informs me

that the Monument and the application site are both located within this historic field.

18. Plate 4 of the Appellant's Heritage Statement shows a view from the south rampart in which the appeal site can be seen to form a part of the close physical setting of the Monument to the south/southwest. Stood in the vicinity of the proposed lodges I observed that the appeal site is quite close to the Monument. The open field enabled a close appreciation of the hilltop setting of the Monument. I could see the relatively low profiled overgrown earthworks at the top of the slope clearly. I was also able to gain an impression of the open situation of the Monument in the landscape surrounding the Monument to the south and appreciate the topography and landform setting of the Monument.
19. The southern slopes around the hillfort are relatively free of development (save for the barn and the retrospective development of two lodges which form part of this appeal). Trees and other development did not compromise my ability to appreciate the contribution that the appeal site and associated land make to the close setting of the Monument to the south. Nor would they materially detract from or interfere with the available views from the earthworks to the south of the wider landscape.
20. From various locations to the south and west I was also able to gain a wider appreciation of the importance of the landform and topography in the setting of the Monument in a number of views. I found that from an area broadly to the south and west the Monument can still be appreciated as a single walled bund at a local high point in the rolling landscape and still extols enough extensive views to ensure that the significance of its landscape setting is appreciable.
21. The Appellant agrees that the Monument is a heritage asset of high significance based on a number of heritage values, including principally its evidential value as an upstanding earthwork which also gives the Monument historical significance as a readily identifiable hillfort of univallate construction. For the reasons given I also find that the landscape setting on the southern side remains important to the significance of the Monument.
22. The four lodges would be located at the southern end of the relatively open hillside field. The two lodges which are in situ can be clearly seen in the image at Plate 4 of the Appellant's Heritage Statement. The four lodges would be set out alongside the access track, in a spaced row. The layout and the rectangular shape and materials of the lodges would be totally at odds with the rural character of the immediate setting of the Monument and would detract from the character and appearance of the sloping hillside and open field which forms part of the immediate landscape setting of the Monument to the south. The development would be visible from the hillfort in views to the south that form part of wider views out from the hillfort reflecting its original commanding presence in the landscape and which contributes to the significance of the monument. The development would result in further encroachment of built form around the Monument.
23. In views towards the hillfort from the countryside a short distance to the south I found partial glimpsed views of the two existing lodges. The lodges are small in scale, only the upper parts are visible, they do not break the skyline, and occupy only a small part of the available views. Nonetheless, seen on the hillside, above surrounding countryside and just below the hilltop hillfort, the two lodges significantly detract from an appreciation of the setting of the

Monument at a local high point in the landscape and its rural setting. The harm from four lodges would be even greater. They would be particularly noticeable and harmful during hours of low light when the illuminated windows of holiday lodges would be both noticeable and discordant against a dark silhouette of the hilltop hillfort behind.

24. The building which would be converted to a holiday accommodation unit has the benefit of a planning permission for a mixed use. In order to accommodate the holiday unit the proposal includes the insertion of a number of new large windows to the south elevation and a large tall glazed opening to the west elevation. Although partially screened by existing woodland the large window openings that would face out from the hillside in an elevated situation would be glimpsed through the trees and appear particularly discordant during hours of low light when lights were on. A bund between the east elevation of the barn and the monument to screen the windows in views from the hillfort would be incongruous and further inappropriate development.
25. New sections of hedgerow planted alongside the engineered layout of the access road and parking bays would appear most incongruous. A strategy of new planting to screen development would extend and strengthen tree cover around the southern hillside, further enclosing the Monument and at odds with the Appellant's evidence about the effect of tree cover on the appreciation of the setting of the asset. Overall the planting would run contrary to advice at paragraph 200 of the Framework to look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance.
26. The proposal would have no physical impact on the Monument, nor to any associated nearby monuments, or to the physical relationship and potential lines of sight between the Camp on Mockham Down and nearby monuments in the surrounding landscape.
27. For the reasons given, I conclude that the proposal before me would cause significant harm to the setting of the Monument to the south and the significance of the Monument. Advice in the Framework is clear that heritage assets are irreplaceable, and any harm or loss should require clear and convincing justification. I attach very great weight to the harm that I have found.
28. I am not persuaded by the evidence before me, including the proposed landscaping that the proposals have given satisfactory consideration to avoiding any harm, providing enhancement, then minimising and mitigating any harm. The Appellant's Heritage Statement concluded that there would be no change to how the significance of the monument is appreciated from its setting, and there is insufficient evidence to demonstrate that the harm I have found is unavoidable, or that unavoidable harm has been minimised as far as possible and an acceptable balance between harm and benefit achieved. The proposal is therefore contrary to Policy DM07(1) of the North Devon and Torridge Local Plan 2011-2031 (Local Plan)
29. The scheme would also conflict with aims of Policy ST15 of the Local Plan which include that great weight will be given to the desirability of preserving and enhancing Devon's historic environment by (a) conserving the historic dimension of the landscape and (b) conserving archaeological features of national and local importance and their settings.

30. In the context of the Framework, the harms that would arise, would be at the upper end of less than substantial harm. Paragraph 196 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
31. I am informed that the appeal site forms part of a small holding of roughly 2.9ha which was formerly part of a larger holding including adjacent land where the Appellant farmed sheep and built a holiday let business. In 2017, due to a change in circumstances outside of his control he had to sell part of the land and the established holiday units, subdividing the unit, and retaining only the small proportion of land. However, personal needs do not amount to public benefits.
32. The Appellant submits that the tourism benefits of the proposal would include extending and diversifying the tourism offer in the locality, direct and indirect economic benefits from tourists staying at the development equivalent to £90,000 - £100,000 associated spend by year 3, and that the proposals would help meet demand for UK based holiday breaks. Section 6 of a Mockham Down protected species report, January 2021, includes a table of biodiversity impacts and concludes that the proposal would result in an ecological net gain.
33. Even if I were to attach significant weight to the benefits as stated the harm that I identified weighs very heavily against granting permission and is not outweighed by the public benefits put forward.

Other Matters

Tourism and the rural economy

34. Local Plan Policy ST07 criterion (4) provides that in the countryside, beyond Local Centres, Villages and Rural Settlements, development will be limited to that which is enabled to meet local economic and social needs, rural building reuse and development which is necessarily restricted to a Countryside location. However paragraph 4.16 of the explanatory text explains that the character of the Countryside should be conserved and enhanced and new development [should] not detract from this.
35. Policy ST13 supports quality tourism development that promotes a year-round industry. Tourism growth should be sustainable and should not damage the natural or historic assets of northern Devon. Paragraph 5.31 explains that delivery of a quality product, not only through environmental safeguards but also through improved standards in the quality and range of accommodation and attractions, is an important element in achieving sustainable development.
36. Policy DM14 provides that for certain types of new small scale economic development in the countryside subject to requirements including that proposals respect the character and qualities of the landscape and the setting of any affected settlement or protected landscape or historic assets and their settings and include effective mitigation measures to avoid adverse effects or minimise them to acceptable levels.
37. Policy DM18(2) supports the development of various forms of tourism accommodation outside the centres, subject to a number of requirements including that they are designed to respect and enhance key characteristics of the relevant landscape character types and that identified heritage assets are

not subject to significant harm, are conserved or enhanced, with particular respect to the setting and special qualities of nationally important landscapes, the Undeveloped Coast, biodiversity and heritage designations.

38. In light of my conclusions on the main issue I find that the proposals would conflict with the environmental requirements of Policies ST13, DM14 and DM18(2) and the development plan when read as a whole. Similarly advice in the Framework at paragraph 83 that planning policies and decisions should enable ... rural industries and sustainable rural tourism and leisure developments is subject to a requirement 'which respect the character of the countryside'. However, these matters are not determinative.

Archaeological and artefactual deposits

39. Whilst the development might have been designed to allow archaeological remains to be undisturbed or mostly undisturbed, lodges 1 and 2 are already in place. Assessment and evaluation should take place before a planning application is determined in order to predict the presence of remains and assess their potential significance. On my site visit I observed that a number of groundworks had taken place including what appeared to be excavations for the laying of drainage pipes. It is unclear how construction was undertaken and whether or not there were any associated effects on subsurface archaeological interest. The Appellant acknowledges that this is regrettable.
40. The Historic Environment Team recommended that the application should be accompanied by a Written Scheme of Investigation setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The Appellant argues that there is no evidence to support there being a real likelihood of any significant below ground remains being present and works in closer proximity to the heritage asset failed to reveal any significant finds. However, they also submit that further possible impacts could be addressed by way of a planning condition which could require further investigation and reporting prior to any further works being carried out. However, as I am minded to dismiss the appeal these matters are not determinative either.

Protected species and biodiversity

41. The Council included a reason for refusal that there was insufficient information by a qualified ecologist and the provision of an appropriately detailed assessment of all existing structures and the potential presence of protected species, potential impacts associated with the change of use of the wider site, including but not limited to recreational disturbance, lighting, noise and provision of hard standing, and lacked a bio-diversity net gain assessment to inform landscaping proposals and planting specifications.
42. At appeal the Appellant submitted a protected species report, January 2021, which concluded that there would be no adverse impacts, no need for any additional surveys and that the proposal would result in an ecological net gain. This issue is not determinative either.

Planning history and alleged breaches of planning permission

43. The Appellant refers to a number of previous planning decisions. The Council informs me that there is currently a live enforcement investigation and in light of a number of retrospective applications the Council does not consider at this stage approval of the building would be acceptable. I do not know the full

circumstances of any of these cases and I have confined my considerations to the merits of the proposal before me.

Conclusions

44. The proposal would cause significant harm to the setting of the Monument to the south and to the significance of the Monument. The proposal would be contrary to provisions for the protection of heritage assets and their settings in Policies DM07(1) and ST15 of the Local Plan and the development plan when read as a whole.
45. The Appellant submitted that the proposal would result in economic and tourism benefits, and an ecological net gain. Even accepting the benefits as stated by the Appellant and giving them significant weight I found that the harm that I identified weighed very heavily against granting permission and was not outweighed by public benefits put forward.
46. Therefore and taking all other matters raised into consideration, including the representations from third parties, I conclude that the appeal should be dismissed.

Helen Heward

Planning Inspector