

Town & Country Planning Act 1990, s78 & s174

**In the Matter of
The Hillyfield, Harbourneford**

STATEMENT OF CASE OF
DARTMOOR NATIONAL PARK AUTHORITY

*Legal & Democratic Services
Parke, Bovey Tracey,
Newton Abbot,
Devon. TQ13 9JQ.*

1 Introduction

- 1.1 The Authority will endeavour to agree a statement of common ground with the appellant, to cover a range of factual matters such as site location and description together with the planning history of the site.
- 1.2 This single statement of case relates to the conjoined appeals. The Authority will produce Proofs of Evidence for each of the Authority's witnesses. The Proofs will cover the following broad areas:
- (1) an assessment of the buildings proposed to be erected under permitted development rights following prior notification.
 - (2) an assessment of the forestry activity and other uses of the land to show that the buildings are not reasonably necessary for the purposes of forestry on the land.
 - (3) an assessment of the other buildings and structures on the land against both national policy and the Local Plan to demonstrate the harmful effect on the character and appearance of the National Park and purposes of National Park designation;
 - (4) the use of caravans & lorry bodies on the land and the absence of justification for it;
 - (5) the structures as operational development on the land and the absence of justification for them; and
 - (6) the other unauthorised uses of the land and the reasons why they should be required to cease .

2 Brief planning history of the appeal site

- 2.1 On 12 September 2011 an application was received for prior notification of forestry development on the land under Schedule 2 Part 7 Town & Country Planning (General Permitted Development) Order 1995 (Ref: 0467/11). The application proposed the renovation of existing tracks and creation of new tracks. The Authority raised no objection.
- 2.2 An enforcement file was opened on 23 March 2012 following receipt of a complaint from a member of the public alleging unauthorised structures and uses on the land.

- 2.3 An enforcement officer visited the land on 27 April 2012 and observed a touring caravan, several canvas structures and evidence suggesting a possible residential use. Photographic evidence was obtained.
- 2.4 On 25 May 2012 the Authority received an application for prior notification of forestry development on the land under Schedule 2 Part 7 Town & Country Planning (General Permitted Development) Order 1995 (Ref: 0297/12). The application proposed the erection of three forestry storage buildings: a pole barn for tools and machinery (154m²); a lean-to barn for planked wood (192m²); and a barn for storage of firewood (90m²).
- 2.5 By a decision letter dated 18 June 2012, the Authority informed the applicant that it did not believe that the buildings were reasonably necessary for the purposes of forestry on the land and that the erection of the buildings was therefore not considered to be permitted development. No appeal was made against this determination and no planning application was submitted.
- 2.6 The site was re-visited by an enforcement officer in June 2013 and further photographs were taken.
- 2.7 On 22 May 2015 the appellant submitted a further application for prior notification of forestry development on the land under Schedule 2 Part 6 Town & Country Planning (General Permitted Development) Order 2015 (Ref: 0259/15). The application proposed the erection of two barns: 14.3m x 13.6m and 24.6m x 7.9m.
- 2.8 By a decision letter dated 18 June 2015 the Authority informed the applicant that it did not believe that the buildings were reasonably necessary for the purposes of forestry on the land and that the erection of the buildings was therefore not considered to be permitted development.
- 2.9 No application for planning permission has been received.
- 2.10 The site was re-visited by an enforcement officer in October 2015.
- 2.11 On 4 December 2015, the Head of Planning, acting under powers delegated to him by the Development Management Committee, authorised the service of Enforcement Notices in respect of the unauthorised structures on the land and the unauthorised use of the land.
- 2.12 The two Enforcement Notices, subject of this appeal, were issued and served on 27 January 2016.

3 Policy Framework

3.1 All development in the National Park needs to be assessed against national policy and the Local Plan. The development at Hillyfield has been assessed against:

- National planning policy in the National Planning Policy Framework ("NPPF");
- the adopted Core Strategy DPD (June 2008);
- the adopted Development Management and Delivery DPD (July 2013);
- Government advice in Circular 2010: English National Parks and the Broads (Defra)

3.2 The Authority will show that the development at Hillyfield is in conflict with national policy and in particular paragraph 115 of the NPPF.

3.3 The Authority will also show that the development has a harmful effect on the character and appearance of this part of the National Park, with particular reference to policies COR1, COR2, DMD1b, DMD5 and DMD34

3.4 There are no material considerations sufficiently weighty to override these policy considerations, nor is there any exceptional overriding justification for the use of the land for purposes other than forestry and agriculture.

4. Operational Development

4.1 Consideration will be given to whether the erection of the structures described in the enforcement notices constitutes operational development. The definition of a 'building' found in section 336(1) of the Town and Country Planning Act 1990 and the relevant case law will be considered, including:

- Barvis Ltd -v- Secretary of State (1971) 22 P&CR 710;
- Skerritts of Nottingham Ltd -v- Secretary of State (No 2) [2000] 2 PLR 102;
- R -v- Swansea City Council Ex parte Elitestone Ltd (1993) 66 P&CR 422 (CA).

4.2 It will be shown, by reference to relevant criteria including size, permanence, connection to the ground, incapability of relocation, construction and materials, that the buildings and structures specified in Enforcement Notice 2 are development within the meaning of the 1990 Act and that their erection / retention without planning permission constitutes an unauthorised building operation.

5. **Material Change in Use**

- 5.1 Reference will be made to site visits, information received from third parties and the content on the appellant's website to show that the land is in a mixed use for agriculture & forestry, residential purposes, recreational purposes and running courses and activities available to the public.
- 5.2 The Authority will demonstrate that the erection of yurts & tented structures, and the siting of touring caravans and two lorry bodies facilitates these unauthorised uses.
- 5.3 Evidence will be produced to show the harmful effect of these unauthorised uses on the character and appearance of the National Park.
- 5.4 The Authority will also refer to a recent letter of representation from the Environment Agency in which it raises a strong objection to the siting of caravans on the land and any use of the land for residential purposes, on the grounds of an unacceptable risk of flooding.

6. **Reasonable Requirements of Forestry**

- 6.1 The Authority will bring evidence to show that there is no reasonable need or requirement for a building for forestry on the land.
- 6.2 The Authority will consider the need for drying and processing timber to render it marketable, and highlight the site constraints – in particular the lack of a suitable access - which makes it impossible to transport sawn timber or firewood from the plantation to market on a reasonable commercial scale.
- 6.3 The Authority will call evidence to show that it is not necessary to provide on-site accommodation in caravans and yurts for "seasonal forestry workers". Furthermore, even if a case can be made for short-term seasonal workers accommodation on site (which is not accepted) this would not justify the year-round presence of caravans and yurt.

7. **Summary**

- 7.1 The Authority will show that the development is:

- Harmful, in terms of the effect on the character and appearance of the National Park;
- in conflict with national policy;
- contrary to the policies in the Local Plan; and
- in conflict with the National Parks Circular 2010 (Defra).

7.2 There are no material considerations sufficiently weighty to override these policy considerations, nor is there any exceptional overriding justification.

7.3 The Inspector appointed by the Secretary of State will be urged to dismiss the appeals and to uphold the Enforcement Notices.

Dartmoor National Park Authority

17 May 2016