

Appeal Decision

Site visit made on 23 August 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 21st September 2016

Appeal Ref: APP/M9496/W/16/3150216

Town End Farm, Main Street, Chelmorton, Derbyshire SK17 9SH

- 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 J Devereux against the decision of Peak District National Park Authority.
 - The application Ref NP/DDD/0715/0658, dated 13 July 2015, was refused by notice dated 13 November 2015.
 - The development proposed is described as proposed agricultural unit.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed agricultural unit at Town End Farm, Main Street, Chelmorton, Derbyshire SK17 9SH in accordance with the terms of the application, Ref NP/DDD/0715/0658, dated 13 July 2015, subject to the attached schedule of conditions.

Main Issues

2. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Chelmorton Conservation Area.
 - Whether, on balance, there are other material considerations, such as an agricultural justification for the proposed development and legal agreement that would outweigh any harm caused and any conflict with the development plan.

Reasons

Character and appearance

3. The appeal site comprises a rectangular area of land located to the north west of the appellant's dwelling at 'Unit 6' with open countryside beyond. The site is located within the Chelmorton Conservation Area and is currently used for the storage of agricultural equipment and building materials.
 4. The proposed development is the construction of a modest shallow pitch roof farm building that would be positioned on a west-east alignment and sited to the rear of the appellants dwelling.
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5. The National Park Authority's approach to the consideration of the acceptability of new agricultural buildings is set out in Policy LC13 of the Peak District National Park Local Plan (2001) (PDLP). This policy, amongst other things, suggests that new agricultural buildings will be permitted provided that they are close to the main group of buildings wherever possible and in all cases relate well to and make best use of existing buildings, trees, walls and other landscape features; respect the design, scale, mass and colouring of existing buildings and building traditions characteristic of the area; making use of the least obtrusive or otherwise damaging possible location; avoid harm to the area's valued characteristics including important local views.
6. Owing to its position immediately to the rear of Unit 6, the proposed building would not be seen from Main Street. Whilst it would be visible in views from the open countryside its appearance would likely be absorbed by the cluster of residential properties that were former farm outbuildings and mature trees in the vicinity of the site. Given the modest size of the building it would not appear as being overly dominant when viewed in the context of the nearby dwellings.
7. In my view, the position of the proposed building would relate reasonably well to the existing field boundaries with its western elevation being incorporated into dry stone wall. Moreover, in the context of the land in the appellant's control in the vicinity, I consider its position would be the least visually damaging. It would not unacceptably encroach into the countryside nor would it be unduly prominent in the landscape. I note the National Park Authority's (NPA) concerns regarding the appearance of the building in long distance views and its impact on the views of the settlement. However, I consider that the proposed building would not appear prominent given its scale, mass, height, close relationship to existing buildings and the backdrop of buildings within the settlement as a whole. As such, it would not cause any significant harm to the landscape character of the surrounding area or any important local views.
8. Although I consider that the scale, mass and height of the proposed building would be appropriate to its setting, the NPA has drawn my attention to the proposed construction materials. I agree with the Council that the use of brown profiled sheets with blockwork below the cladding and a zinc roof would not be appropriate materials given the location of the proposed building within the Conservation Area. Moreover, it would not represent the vernacular of similar buildings in the National Park.
9. The Officer report suggested a planning condition requiring the building to be timber clad down to the damp line with a fibre cement dark slate roof sheet. Although the appellant has not made any comment on the suggested condition, I agree with the NPA that the use of such materials would be more in keeping with the character of agricultural buildings in the locality and, in my view, particularly within the Conservation Area. The use of vertical timber boarding was also proposed on the planning application form and within the submitted design and access statement. The use of such appropriate materials is a matter that can be subject to a planning condition, were I minded to allow this appeal, as this would not fundamentally change the proposal and would make the development acceptable.
10. I have taken into account the Conservation Area Appraisal. The position of the proposed building would have no material impact on the distinctive strip field

system. It would not have any impact on the character and appearance of Main Street or any views from it. Given my findings regarding the visual impact of the proposed building, subject to the use of appropriate materials, I do not consider that the proposed development would cause any demonstrable harm to the character and appearance of the Conservation Area.

11. The NPA indicates that a slight revision to the siting of the building would be necessary and suggest that this could be achieved by requiring details of siting to be submitted as part of a proposed landscaping scheme. Whilst I recognise that the objective of this would be to enable the continuation of the proposed stone wall to the west of the building, thereby providing screening to the blockwork, this appeal has to be determined on the basis of the submitted plans. Any change in the siting of the building to an as yet unknown position would be a fundamental change to the proposed development which should only be considered through revised plans prior to determination or by means of a new planning application. As such this is not a matter which would be appropriate to be considered by means of a condition.
12. My findings in respect of the siting of the proposed development are on the basis of its position as shown on the submitted plans. Whilst I recognise that some blockwork below the external cladding may be exposed to views from the west I do not consider that this would be of an extent to cause any significant harm to the character and appearance of the Conservation Area or the valued landscape of the National Park. However, I recognise that the stone wall that currently forms part of the western boundary of the site is to be repositioned as part of the proposed development and see no reason why the position and design of this wall could not be the subject of the suggested landscaping condition.
13. For these reasons, the proposed development would preserve the character and appearance of the Conservation Area as a whole in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would accord with paragraphs 131 and 132 of the National Planning Policy Framework (the Framework). As a result there would be no conflict with Policies L1, L3, LC4, LC5 and LC6 of the PDLP or Policies GSP1, GSP2 and GSP3 of the Peak District National Park Core Strategy Development Plan Document (2011). These policies, amongst other things, require new development to be of a design that reflects the character of the area, conserves the valued landscape character and conserves heritage assets and their settings.

Agricultural justification

14. The submitted planning application did not include any supporting information that provided an agricultural justification for the proposed building. The Officer's Report identifies that policy LC13 of the PDLP does not require an agricultural justification for new farm buildings.
15. The appellant's statement explains that 11 acres of land are farmed, mainly located to the west of the proposed building. The intention is to build up a flock of approximately 20 breeding ewes and the proposed building would provide penning for ewes and young lambs in addition to providing covered storage for fodder and machinery.
16. The NPA has expressed some concerns regarding the submitted appraisal contained within the appellant's statement. However, given my findings above

regarding the lack of any significant harm to the character and appearance of the area and the fact there is no current policy basis that requires an application for an agricultural building to be supported by an appraisal, leads me to conclude that any short comings in the submitted appraisal would not be a sustainable reason on which to dismiss this appeal.

Legal agreement

17. The NPA has identified that the property that would be most affected by the proposed building would be the appellant's own house and matters such as noise, disturbance and odour could become an issue if the building and associated land were to be sold separately. The NPA suggest that these potential problems would be resolved by the prior entry into a legal agreement preventing the separate sale of the existing house, the proposed building and the associated land in the appellant's ownership.
18. Notwithstanding the proximity of the appellant's house to the proposed building, the NPA has not cited in the Decision Notice that the proposed development would have an unacceptable effect on the living conditions of the occupants of Unit 6, or any other dwellings, to the extent that this could only be mitigated by a legal agreement.
19. Whilst I can understand the NPA's desire for such legal agreement, there is no demonstrable evidence before me to suggest that the proposed building would be likely to any cause significant harm to the living conditions of the occupants of nearby properties, including the appellant's dwelling, of an extent that could only be mitigated by a legal agreement. Consequently, I do not consider that such agreement would be demonstrably necessary to make the development acceptable in planning terms.
20. In any event, any prospective future purchaser of Unit 6 would be aware of the proximity of the proposed building and given the lack of any demonstrable evidence of any harm to the living conditions of the occupants of nearby properties, I have no reasonable justification to require a legal agreement on the basis suggested by the NPA.

Other matters

21. The planning application was determined on the basis that the proposed access to the building would be via the southern access to the site only. This was the basis on which public consultation was undertaken. The appellant's statement refers to the fact that use of the northern access would still be required to access the yard and fields by large vehicles that could not be accommodated through the southern access. Whilst I understand the NPA's desire to see the closure of the northern access, on the basis of the evidence before me, this was not proposed in any of the submission documents and I note the appellant's objection to the NPA's suggested planning condition requiring its closure.
22. Although the officer's report suggests that the revised plans show that the northern access would be blocked off with a dry stone wall, I have no evidence before me that conclusively demonstrates this to be the case. Such matter is not shown on the 'Proposed Plans and Elevations' drawing (Ref 1505/04C) or 'Block and Location Plan' (Ref 1505/03/B). On the basis of the evidence before me, I cannot find any reference in the planning application relating to

the intended closure of the northern access which appears to be still required to provide suitable access to the appellant's wider landholding.

23. Against this background, it is clear that the application suggests that access to the proposed development would be via the southern access point only and no changes to the northern access were proposed for use by the wider landholding. I have no other demonstrable evidence to indicate that there are any justifiable planning reasons to suggest that the proposed development could only proceed on the basis that the northern access to the wider landholding should be closed. Consequently, a condition requiring the blocking up of the northern access would be unreasonable.
24. I have taken into account the concerns of a local resident regarding the effect of the proposed building on outlook. However, this matter was not cited as a reason for refusal of planning permission by the NPA. Consequently, I attach limited weight to these concerns.

Conditions

25. The NPA has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the government's Planning Practice Guidance. As a result, I have amended some of them for clarity and eliminated some elements for the reasons set out below.
26. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area, I have also imposed a condition concerning the external materials to be used including the provision of vertical boarding.
27. I agree that a condition is required to restrict the use of the building to agricultural purposes. I also agree that a condition is required relating to the submission and implementation of a landscaping scheme. However, the NPA's suggested condition requires the removal of the existing field shelter. The NPA indicates that the existing field shelter and the proposed building would cumulatively have an unacceptable impact on the character and appearance of the Conservation Area. However, I have no other evidence to indicate the planning reasons for the removal of the shelter which has planning permission and is shown as remaining in-situ on the proposed plans. Moreover, I have considered the impact on the character and appearance of the area with the permitted field shelter in situ.
28. Consequently, those elements of the suggested landscaping condition relating to the removal of the field shelter would be unreasonable. The landscaping condition refers to the submission of the details of siting of the proposed building. For the reasons explained above, this is a matter that cannot be considered as part of a planning condition and consequently I have deleted that part of the condition. However, I have required the submission of the design details, position and implementation programme of the new dry stone wall.
29. For the reasons also outlined above, the part of the suggested landscaping condition relating to the blocking of the northern access point would be unreasonable and I have deleted this element from the proposed landscaping condition.

30. The NPA's suggested condition relating to the implementation of the landscaping scheme does not appear to provide any date or other mechanism requiring the implementation of the construction of new dry stone walls. I have therefore amended the suggested condition to require the proposed dry stone walls to be constructed prior to the building being brought into use.

Conclusion

31. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1505/03B and 1505/04C.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the National Park Authority. Such details shall provide for vertical timber boarding to damp proof level for the walls and fibre cement sheeting factory coloured dark slate blue for the roof. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) the building hereby approved shall not be used for any other purpose other than for the purposes related directly to agriculture as defined by s.336 of the Town and Country Planning Act 1990.
- 5) No development shall take place until a landscaping scheme, showing (i) precise details of types and numbers of tree species to be planted and , (ii) design details, position and timing of the erection of a new field boundary wall, shall be submitted to and agreed in writing by the National Park Authority.
- 6) Thereafter, construction of the walling shall be carried out in complete accordance with the approved details prior to the building being brought into use. The approved planting scheme shall be carried out in the first planting season after the completion of the development, or the first planting season following the building first being taken in to use, whichever is sooner. Any plants that are damaged or die within the first five years of being planted shall be replaced with an identical specimen or a replacement agreed in writing by the National Park Authority.