



Appeal Decision

Hearing held on 15 October 2019

Site visit made on 15 October 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref: APP/P1045/C/18/3216690

Land at Oakstone Farm, Old Hackney Lane, Hackney, Matlock, DE4 2QJ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Lindsey Adderson against an enforcement notice issued by Derbyshire Dales District Council.
- The enforcement notice was issued on 23 October 2018.
- The breach of planning control as alleged in the notice is the material change of use of the land, edged blue on the attached plan, for the stationing of a shepherd's hut for the purposes of human habitation as holiday accommodation with associated hard surfacing and siting of hot tub.
- The requirements of the notice are: -
 - 5.1 To permanently remove the shepherd's hut from the land.
 - 5.2 To permanently remove the associated hard surfacing and hot tub and restore the land to its former condition as a green field.
- The periods for compliance with the requirements are: -
 - 5.1 28 days
 - 5.2 3 months
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended (the 1990 Act).

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected in the terms set out below in the Formal Decision.

The Notice

1. I have powers under Section 176(1)(a) of the 1990 Act to correct any defect, error or misdescription in the enforcement notice. The land affected by the enforcement notice and the alleged breach of planning control as shown on the plan attached to the enforcement notice cover areas of land associated with Oakstone Farm. The Council stated at the hearing that these areas were included due to the fact that the shepherd's hut is capable of being moved. However, the alleged breach does not refer to the use of the land edged blue as a mixed use. Both parties disputed at the hearing as to what constitutes the mixed use of that land.
2. Moreover, even though the shepherd's hut could be moved it is highly unlikely that the hard-surfaced area that has been laid, to site it and the hot tub on, would be moved. In addition, measurements were agreed at the site visit so that the Council could submit an amended plan reducing the land affected and the area relating to the breach of planning control to that covered by the hard-surfaced area. Reducing the area of land to which the enforcement notice relates would make it less onerous and so I can make the necessary

corrections to the notice without causing injustice to the appeal parties. I intend to correct the notice by omitting the original attached plan and replace it with the amended plan submitted by the Council. As the area of land relating to both the alleged breach and the land affected would be the same, I shall remove any reference to the land edged blue from the allegation.

3. To ensure clarity I also consider that the alleged breach of the notice should be corrected by adding the words '*Without planning permission*' at the beginning of paragraph 3. I can make the necessary corrections to the notice without causing injustice to the appeal parties.
4. The appellant disputes that the wording of the requirement point 5.2 in that she does not consider that the site was a green field before the breach took place. It is clear that the first part of point 5.2 requires the removal of the hard surfacing and the hot tub from the land. As such, I intend to correct the notice by deleting the wording '*as a green field*'. I can make the necessary corrections to the notice without causing injustice to the appeal parties.

Procedural Matters

5. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. However, the sections relevant to this appeal have not materially altered. Moreover, both parties had the chance to comment on the revised Framework as part of the appeal process.
6. The Council confirmed at the hearing that the site is not within the Peak District National Park and that it is not within a defined settlement development boundary as shown on the Policies Map of the Derbyshire Dales Local Plan (LP). The appellant has cited LP Policy EC10 which relates to farm enterprises and diversification. There is little evidence before me in relation to the viability of farming activities at Oakstone Farm and the appellant stated at the hearing that there has been little farming activity undertaken recently due to personal circumstances. As such, I consider that this policy is not relevant to this appeal on this basis.

The ground (a) appeal and deemed planning application

Main Issue

7. The main issue is whether the site is a suitable location for the development with regard to the character and appearance of the area, the provision of holiday accommodation and the relevant development plan policies.

Reasons

8. LP Policy S1 sets out the Council's overarching principles of sustainable development including meeting most development needs within or adjacent to existing communities and conserving the natural environment. LP Policy S4 advises that the intrinsic character and distinctiveness of the landscape should be protected whilst also facilitating sustainable tourism and economic development. Criterion b) specifically permits development which represents sustainable growth of tourism in sustainable locations where identified needs are not being met by local facilities.

9. LP Policy PD5 seeks to resist development which would be detrimental to the character of the local and wider landscape or the setting of a settlement. LP Policy PD1, amongst other things, requires that new development to be of high quality design that respects the character of the landscape. LP Policy EC8 relates to promoting Peak District tourism and culture and it states, amongst other things, that the Council will support tourism and provision for visitors which is appropriate to the settlements and countryside and consistent with environmental objectives.
10. The alleged breach relates to a shepherd's hut that is used for holiday accommodation, a hot tub and the hard surfaced area that they are sited on. This development is located adjacent to fields/paddocks and a number of buildings that are associated with Oakstone Farm. There is a public right of way (PROW) that adjoins a boundary with the farm and there are dwellings adjacent to and opposite the farm. Based on my observations and the evidence before me I consider that the surrounding area is characterised by the sloping topography associated with river/stream valleys that have settlements, farms and other buildings spread along their sides. Mature landscaping in the form of woodland and hedgerows means that long and medium distance views are filtered and restricted by them.
11. The shepherd's hut is sited at a higher level to and further away from Old Hackney Lane than the other buildings on the farm. However, the mature landscaping along the boundary with the PROW means that it is screened from views when on the PROW. Moreover, the tall stone wall along the farm's road frontage limits short distance views of the development when travelling in a car, or walking on the pavement, on that side of Old Hackney Lane. The hot tub and hardsurfaced area are only apparent when in close proximity to the hut itself.
12. I note that a nearby site is allocated for housing in the LP (HC2 (i)). However, I was told at the hearing that no planning permission for housing has been granted on that site at the present time. As such, the layout of the housing scheme is unknown and the impact that it would have on medium distance views of the shepherd's hut from Old Hackney Lane is also unknown.
13. Nevertheless, whilst the shepherd's hut itself is visible in views from Old Hackney Lane and neighbouring land it is relatively small and is seen in the context of outbuildings and agricultural buildings associated with Oakstone Farm and the adjacent property. I understand that there are very few similar huts in the surrounding area and that the small brick building near to the hut may not have planning permission.
14. However, I do not consider that this small, traditionally-designed shepherd's hut appears incongruous or unduly intrusive in this context. This is due to its general form and materials which are not unlike that of an agricultural building coupled with its subdued colours. Furthermore, this limited visual impact could be further mitigated by the provision of appropriate landscaping in close proximity to the hardsurfaced area. The provision of that landscaping can be controlled by the imposition of a condition.
15. Consequently, I do not consider that the development harms the character and appearance of the area and it conserves the natural environment. Oakstone Farm is adjacent to the existing communities of Matlock and Hackney and there is no dispute that it is within a relatively accessible location given its proximity

to the town centre of Matlock. There is little to indicate that there is a specific identified need for this type of holiday accommodation that is not being met by local facilities. Nonetheless, I heard that there is a demand for holiday accommodation in this area. Moreover, this small tourism enterprise offers an opportunity to support the local rural economy in a manner which is appropriate to the nearby settlements and the countryside, and consistent with environmental objectives.

16. Taking into account all of the above, I consider that the development complies with LP Policies S1, S4, PD1, PD5 and EC8 and therefore the site is suitable for it.

Conditions

17. Both parties were given the chance to discuss the wording of suggested conditions and whether the conditions met the requirements of the Framework and the Planning Practice Guidance (PPG) at the hearing.
18. In the interests of the character and appearance of the area I consider that conditions restricting other mobile units and the number of shepherd's huts to be sited on the land and requiring that a scheme of landscaping is submitted are necessary. The purpose of condition No 3 is to require the appellant to comply with a strict timetable for dealing with the submission of a landscape scheme which needs to be addressed in order to make the development acceptable. The condition is drafted in this form because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the subsequent approval and implementation of the outstanding detailed matter because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the use of the site authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.
19. In order to ensure that the site is used as holiday accommodation, and is not used for permanent residential occupation, I have also imposed a condition restricting the occupation of the shepherd's hut.

Conclusion

20. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

Formal Decision

21. It is directed that the enforcement notice be corrected by; -
- The addition of the words "Without planning permission" at the beginning of paragraph 3;
 - The deletion of the words ", edged blue on the attached plan," from paragraph 3;
 - The substitution of the plan annexed to this decision for the plan attached to the enforcement notice;
 - by deleting the wording "as a green field" from the requirement point 5.2.

22. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act, for the development already carried out, namely the use for the stationing of a shepherd's hut for the purposes of human habitation as holiday accommodation with associated hard surfacing and siting of hot tub on the land shown edged red on the plan annexed to this decision at Oakstone Farm, Old Hackney Lane, Hackney, Matlock, Derbyshire DE4 2QJ subject to the following conditions:
- 1) No mobile unit other than 1 shepherd's hut shall be stationed on the land at any time.
 - 2) The shepherd's hut on the site shall be occupied for holiday purposes only and shall not be occupied on a permanent basis or as a person's sole or main source of residence. The site owners/operators shall maintain an up to date register of the names of occupiers of the shepherd's hut and of their main home addresses and shall make this information available for inspection on request at all reasonable times to the local planning authority.
 - 3) Unless within 1 month of the date of this decision a scheme for landscaping, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within the first planting and seeding seasons following the date of this decision; the use of the site for the stationing of a shepherd's hut for the purposes of human habitation as holiday accommodation shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented. Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained and any trees or plants which within a period of 5 years from date of this decision die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

D. Boffin

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr A.R. Yarwood DipTP MRTPI

Lindsey Jean Adderson

Adrian Adderson

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Arbon – Planning Officer

INTERESTED PERSONS:

Jane Holmes

DOCUMENTS

- A. Photograph of Site Notice, notification letters in relation to the appeal and hearing date and venue and consultation list.

PLANS

- 1. Extract from Policies Map
- 2. Amended Enforcement Notice Plan



Plan

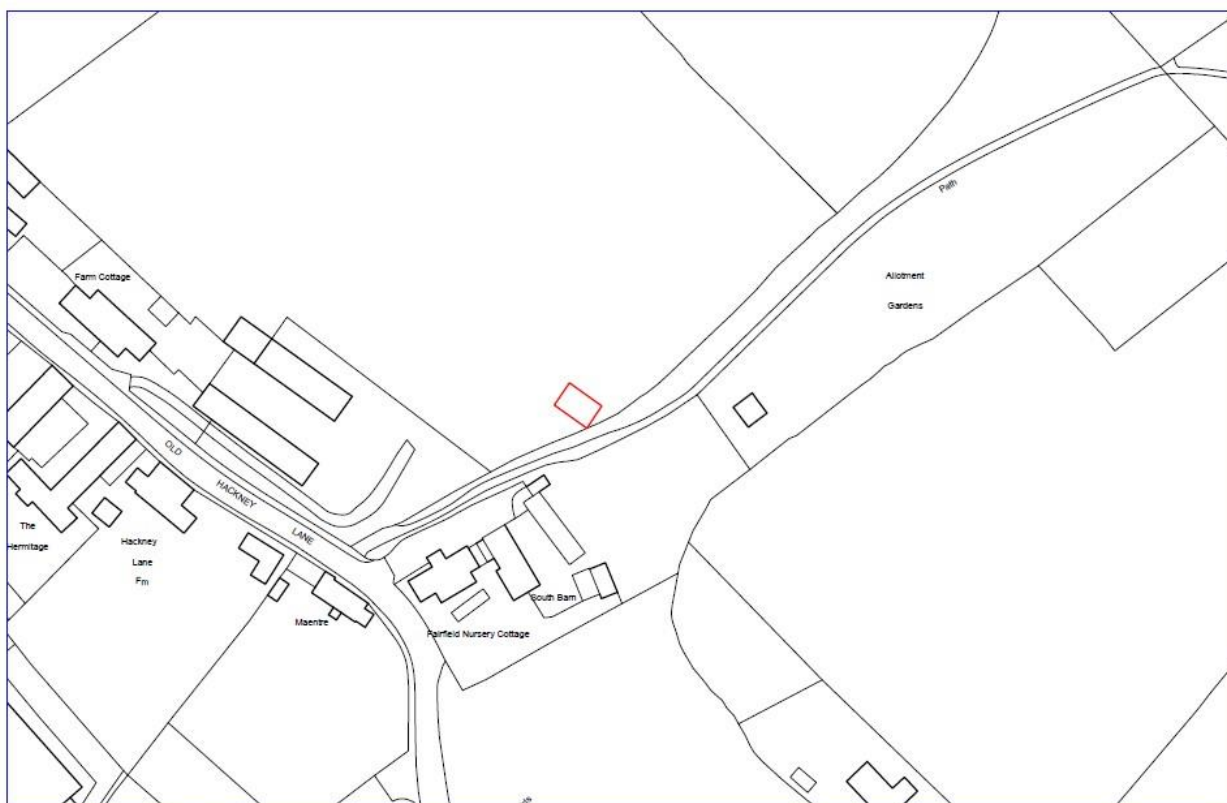
This is the plan referred to in my decision dated: 26 November 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

Land at: Oakstone Farm, Old Hackney Lane, Hackney, Matlock, DE4 2QJ

Reference: APP/P1045/C/18/3216690

Scale: Not to Scale



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