



Appeal Decision

Site visit made on 11 May 2021

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2021

Appeal Ref: APP/M9496/C/20/3262757

Land at Home Farm, Main Street, Sheldon, Bakewell DE45 1QS

- 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 Mr Ammir Kohanzad against an enforcement notice issued by Peak District National Park Authority.
 - The enforcement notice was issued on 16 October 2020.
 - The breach of planning control as alleged in the notice is:
 - (i) Without planning permission, the carrying out of engineering operations, consisting of the excavation of the land; and
 - (ii) Without planning permission, the carrying out of building operations, consisting of the construction of foundations and the erection of walls.Both the engineering operations and the building operations are in the approximate position shown cross-hatched black on the attached plan.
 - The requirements of the notice are:
 - a) Demolish the foundations and partially constructed walls and remove the materials used in their construction from the Land.
 - b) Using inert stone-based materials, backfill and reinstate the excavated ground to its pre-existing level, profile and condition.
 - The period for compliance with the requirements is: for a) 3 months and for b) five months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (c) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Background

2. The breach of planning control alleged in the notice relates to an area of land immediately to the north of a converted barn which is in use as a guest house and known as Sheldon's Luxury Retreat. The land is situated within the village of Sheldon and within its Conservation Area.
3. The operations undertaken comprise the excavation of a void immediately to the rear of the converted barn. Within the void a concrete base with foundations has been laid and blockwork walls partially constructed. A stop notice was served concurrently with the enforcement notice.

Appeal on ground (c)

4. The ground of appeal is that the matters alleged in the notice do not constitute a breach of planning control. The appellant has stated that he is in the process of submitting an application for planning permission and that the alleged breach of planning control relates to the development of an existing commercial building.
5. There does not appear to be any dispute between the parties that the works of excavation and subsequent construction of a concrete base and walls are building operations and therefore development, as defined by s55(1) of the Town and Country Planning Act, 1990 and for which planning permission is required.
6. There is no record of planning permission being granted for the development alleged in the breach. In the alternative, the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) in Article 3 grants planning permission for classes of development described as permitted development. None of the classes provide for the development alleged in the breach which has taken place to an existing commercial property.
7. My conclusion is that development took place for which no planning permission was granted by the local planning authority. This development is not permitted development under any provision of the GPDO. A breach of planning control occurred and the appeal on ground (c) fails.

Appeal on ground (a), deemed planning permission

Main Issue

8. The main issue is the effect on the character and appearance of the area, including Sheldon Conservation Area (CA) and the Peak District National Park.

Reasons

9. Sheldon Luxury Retreat is a substantial vernacular limestone rubble converted barn, formerly part of Home Farm. It has been previously converted to residential accommodation and now in use as a guest house within Sheldon.
10. From my observations and the details available to me, including the Authority's Conservation Area Appraisal for Sheldon, 2005, I consider the significance of the CA as a heritage asset is mainly drawn from the linear arrangement and concentration of informal terraced cottages, farm houses and buildings which line the unkerbed Main Street with its elongated verge greens and enclosed front gardens. The simple vernacular limestone buildings with traditional detailing, high quality materials, craftsmanship and fine architectural details, all contribute to the significance of the CA.
11. The unauthorised works comprise the base, partially constructed walls and window/door openings of an uncompleted building abutting the rear elevation of the guest house. The building has a footprint of approximately 135m² and as constructed, the blockwork walls extend to approximately 2/3m in height.¹

¹ Taken from the appeal form.

12. Section 177(1) of the Act only allows for a grant of planning permission for the whole or part of the matters stated in the enforcement notice as constituting a breach of planning control. The deemed planning application is therefore confined to the partially constructed structure. I have dealt with the appeal on this basis.
13. The National Planning Policy Framework (the Framework) requires great weight to be given to conserving and enhancing landscape and scenic beauty of the National Park (NP) and to the conservation and enhancement of wildlife and cultural heritage in this area. I have also had regard to the requirement for special attention to be paid to the need to preserve or enhance the character or appearance of that area.
14. The unauthorised development is substantial in scale and form, and has a crude and unfinished appearance. The development does not respond to the locally distinctive design details which characterise the adjacent host property, and in this sensitive location it detracts from the valued characteristics of the area. I recognise that a condition could be imposed to require the walls to be finished in natural materials. However, the walls are not complete, the building has no roof and its intended use is unknown. As constructed, facing the walls in traditional local materials would not overcome the incongruous appearance of this substantial and only partially constructed building.
15. I conclude that the development does not preserve or enhance the character and appearance of Sheldon CA and has a harmful effect on the character and appearance of the host property and the National Park. It causes less than substantial harm to the significance of the CA as a heritage asset. The harm is not outweighed by any public benefit, including any intended improvements to existing holiday accommodation. The development is therefore contrary to policies in the Framework as set out above, including those which seek to conserve and enhance the historic environment. In addition, the development conflicts with the development plan as a whole and in particular with Policies GSP1, GSP2, and GSP3 of the Peak District National Park Core Strategy Development Plan Document, 2011 which, amongst other things, seek to ensure that all development conserves and enhances the valued characteristics of the NP. I also find conflict with the design and heritage aims of Policies DMC3 and DMC8 of the adopted Peak District National Park Development Management Policies, May 2019.
16. I conclude that the appeal on ground (a) must fail.

Conclusion

17. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Elizabeth Pleasant

INSPECTOR