



Appeal Decision

Hearing (Virtual) Held on 9 June 2021

Site Visit made on 10 June 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 19th July 2021

Appeal Ref: APP/M9496/W/20/3260846

Lane End Farm, Abney, Hathersage, Hope Valley, Derbyshire S32 1AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Ms V Howson against Peak District National Park Authority.
 - The application Ref NP/DDD/0220/0126, is dated 13 February 2020.
 - The development proposed is the conversion of barn and holiday unit to dwelling, including removal of modern lean-to barn (revision to planning permission NP/DDD/1117/1162).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Ms V Howson against the Peak District National Planning Authority. That application is the subject of a separate Decision.

Background and Procedural Matters

3. Planning permission¹ was originally granted in 2003 to convert 2 traditional barns (barns 1 and 2) and to alter and convert a modern barn (barn 3) to create 3 holiday units. Barn 1 has been converted into 2 residential units with the ground floor in holiday use and an unauthorised permanent residential use of the first floor. This is not in accordance with the approved plans and it is in breach of occupancy conditions, the latter of which is the subject of enforcement notices and appeal decisions. Nevertheless, the Council considers that the permission has been implemented.
4. Planning permission² was granted in 2015 for the conversion of barn 2 to an open market dwelling ancillary to the holiday use of barn 1, the removal of barn 3 and the refurbishment of a pole barn. In 2018, planning permission³ was granted for the residential conversion of barn 2 independent from barn 1, and the removal of barn 3 and the pole barn.
5. In 2019, planning permission⁴ was refused for the conversion of barn 2 and its incorporation with the already converted first floor of barn 1 to create 1 open market dwelling. A subsequent appeal was withdrawn. The application subject

¹ Ref NP/DDD/0410/0317

² Ref NP/DDD/0213/0097

³ Ref NP/DDD/1117/1162

⁴ Ref NP/DDD/0818/0745

of this appeal is a resubmission of the refused scheme. It differs by virtue of being supported by additional information including a Financial Viability Assessment (FVA) and a Building Conversion Feasibility Assessment (BCFA).

6. The appeal proposal would be a 2 bed open market dwelling. The majority of the living accommodation would be provided in the first floor of barn 1. The first floor of barn 2 would provide a living room with stairs leading to a ground floor cloakroom and external door. The remainder of the ground floor of barn 2 would be an undercroft. The appellant considers that the scheme is justified because the approved conversion of barn 2 is not viable and the proposal is necessary to achieve the conservation and enhancement of barn 2.
7. A signed and dated Unilateral Undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal. It contains obligations relating to timetables for the removal of the pole barn and barn 3 and it commits to not further implement a number of extant planning permissions. The Council has commented on the UU. Accordingly, I have had regard to it in reaching my decision.
8. The Council submitted late information to the Hearing, in the form of housing market evidence from 2015-2021 for 1 bed dwellings in the Hope Valley area. As this information had not been provided in advance, the appellant was unable to review it and to confirm that the data was reliable for the purposes of establishing the end value of barn 2. Consequently, I have had regard to the late information only insofar as it confirms that the market value for 1 bed properties varies widely, being influenced by a range of contributory factors.
9. The appeal was made following the Council's failure to determine the application within the prescribed time limits. Although there is no formal decision on the application, the Council has clarified that had it been in a position to determine the application it would have refused permission on grounds relating to rural housing and impacts on bats.

Main Issues

10. Therefore, the main issues are:

- i) whether the proposal is in accordance with local and national planning policy for new residential development, with particular regard to the conservation and enhancement of non-designated heritage assets; and
- ii) the effect of the proposal on protected species, particularly bats.

Reasons

New residential development

11. The appeal site comprises several agricultural buildings at the eastern end of Abney, which is a small linear settlement on the upper slopes of a rural valley. Barns 1 and 2 are arranged in an L-shape around a small yard that opens onto the road. Barn 1 is in an elevated position to the rear of the yard, with Barn 2 built across the slope and finishing immediately adjacent to the road. Barn 3 is built against the long eastern elevation of barn 2. The pole barn is in an elevated position to the rear of barn 1. The farmstead was formerly associated with the neighbouring Lane End Farmhouse, now in separate ownership.

12. Part of the appeal site, including barns 1 to 3, is within Abney Conservation Area (the CA), which includes historic farm buildings and dwellings irregularly sited to both sides of the street. The majority of buildings date from the 18th and 19th centuries and are constructed in coursed gritstone with stone slate roofs. The significance of the CA derives in part from the historic open form of the village, the traditional stone dwellings and farmsteads, drystone walls and strong visual connection to the surrounding countryside.
13. Barns 1 and 2 are agricultural vernacular buildings which, although not intact, are acknowledged to be non-designated heritage assets that make a positive contribution to the significance of the CA. Barn 3 is a modern portal frame building with a corrugated roof, but it is constructed in stone and it has a typical rural agricultural appearance. Consequently, it makes a neutral contribution to the CA. The partly demolished pole barn makes a negative contribution to the setting of the CA.

The feasibility of converting barn 2 in accordance with the extant planning permission

14. The 2018 scheme for the residential conversion of barn 2 would create living accommodation over 2 floors. The barn features an historic roof truss with an underside clearance of roughly 1.75m, although the first floor is otherwise open to the roof. The submitted BCFA is predicated on the retention of the roof truss and the need to create a minimum 2m height clearance below it. This would require lowering of the first floor, which would unacceptably reduce the already constrained ceiling heights at ground floor level. The ground floor would need to be excavated in any case to allow for damp proofing and the construction of a new level floor. However, the deep excavations required to significantly lower the ground floor to accommodate a lower first floor would potentially compromise the structural integrity of the barn in the absence of underpinning.
15. This would be an extensive and expensive programme of works. The BCFA estimates that the conversion project, taking into account other items including contingency and professional fees, would cost just under £281,000. The FVA considers that the conversion would not be viable as the converted barn would have an end market value of roughly £214,000. Furthermore, the FVA considers that the conversion would not be viable even if costs were reduced by avoiding deep excavation and underpinning, because the converted barn would then have a lower end value due to restricted ceiling heights. However, there is little compelling evidence that the extensive works proposed would be strictly necessary or the most cost effective solution to convert the barn.
16. There is little substantive evidence that the low roof truss would represent a significant risk to future occupiers or that a clearance of 2m would need to be created beneath it. The truss is a substantial feature with a wide bottom beam and wide central post connecting to the apex. Consequently, it is a prominent and conspicuous feature. I accept that a taller than average person might bump their head on it, including in the event of a power cut or house fire. However, low beams and doorways are not uncommon in older buildings and there is little compelling evidence that the readily visible roof truss would represent an unacceptable risk to future occupiers.
17. Even if the truss beam was too great a hazard in its current form, both Erskine Hunt Consulting Engineers and the BCFA confirm that its alteration or removal may be a more cost effective option than lowering floors around it. This option

has not been costed, being discounted on grounds that it would damage the historic character of the barn. However, while the roof truss is part of the historic fabric of the building, barn 2 is not a listed building nor is it an example of an intact vernacular building. The appellant's desire to retain the truss is understandable, but the conservation of the barn does not depend on the retention of the truss in its current form. If the 1.75m clearance was acceptable, or if the bottom beam was raised, lowering of the first floor and deep excavation and underpinning at ground floor level could be avoided.

18. Irrespective, there would need to be works to the first floor and its suggested replacement with deeper joists, sound insulation and surface finishing would further compromise heights either above or below it. However, the joists appear to be in reasonable condition. The ground floor posts attached to the underside of the joists appear to be for the purposes of securing animal stalls rather than structural. The first floor is boarded and it is currently bearing the weight of domestic storage use. It has not been demonstrated that the existing joists could not be retained and stabilised and strengthened by the addition of steel beams.
19. As noted above, there would need to be some ground floor excavation to damp proof the building and construct a floor. There may also need to be some lowering of the ground floor, at least at the end closest to barn 1 if an internal height of 2m was to be achieved across the entire ground floor. However, the approved plans appear to already take into account the reduced ceiling height at the upper end of the barn. The proposal to use the end of the ground floor with the lowest headroom for storage purposes would avoid the need for deeper excavations.
20. While underpinning may be required in the event of deep excavations, this has not been confirmed by ground investigations. Neither has it been demonstrated that underpinning would be required for shallower excavations, particularly if the barn is built over shallow bedrock as was suggested at the Hearing. From what I have seen, read and heard, there appear to be alternatives to the works proposed whereby the barn could be converted to provide a reasonable standard of living accommodation through less extensive works and at a reduced cost. The proposal does not demonstrate that such alternatives have either been fully explored or discounted.
21. Other elements that contribute significantly to the overall cost for the approved conversion were discussed at the Hearing. Accepting the need for a contingency budget, as a percentage of the building works, this would be reduced if the works were less expensive. Professional fees as a percentage of the overall project cost would be similarly reduced by more cost effective alternatives. Moreover, while Savills routinely recommend professional fees be included at 12% of the project cost, there is little before me to demonstrate that any necessary architects or Building Regulations drawings could not be procured for a lesser amount than the over £30,000 as suggested.

Financial viability

22. The estimated end value of barn 2 is based on a review of comparables and it takes into account a range of factors including the absence of a garage, the smaller market for 1 bed properties, restricted ceiling heights, the limited window openings and the location. The Council has not commissioned its own FVA. Nevertheless, following a review of the evidence and based on the advice

of its independent advisor, it considers that the appellant not only overestimates the cost of conversion works but also underestimates the end value of barn 2.

23. The evidence submitted with the appeal acknowledges that barn 2 is an exceptionally fine building, including in terms of its proportions and detailing and it is constructed to a higher standard and quality than many farm buildings. Although there would be no garage, there would be convenient offstreet parking provision for several vehicles. There is little evidence that low beams and restricted window openings, such as are common features of historic buildings, routinely depress market value. In any case, the Council suggests that additional ground floor windows overlooking the garden area could reasonably be created. Abney is an attractive historic settlement set in open countryside, but within a reasonable distance of larger settlements.
24. There is limited directly comparable market evidence, with none of the properties used appearing very similar to barn 2 including in terms of its appearance, internal living accommodation, outdoor space or location. The small number of comparables that informed the FVA were predominantly 1 bed terraced properties located in the settlement of Bradwell. I accept that the appellant considers these to be more representative than the Council's comparables, which were predominantly 2 bed properties and drawn more widely from Hope Valley. However, there is little evidence that the Council's comparables were drawn from higher value areas than Abney. Moreover, it was agreed at the Hearing that the smaller market for 1 bed properties does not devalue such properties. Therefore, I find little justification to discount the Council's market evidence as unrepresentative or unreliable in terms of understanding average value or tone for Abney.
25. In the absence of a robust evidence base of direct comparables, both parties necessarily exercised professional judgement in arriving at an end value for the approved conversion of barn 2. The potential market value was discussed at some length at the Hearing, with both parties maintaining their respective previously stated positions. Based on the written and oral evidence, I find that there is reasonable uncertainty as to the precise end value of barn 2, which will ultimately depend upon how much somebody is prepared to pay for it.
26. The appellant suggests that even if the end value was higher, the approved conversion of barn 2 would not be viable because other costs, such as the existing value and demolition of barn 3 and a developer's return would need to be taken into account. In this regard, there is correspondence that refers to barn 3 as having a value of £30,000 and that suggests the loss of the holiday cottage would equate to perhaps £70,000. However, it is not clear how the existing use value of barn 3 has been calculated. The Council considers that this would in any case be recovered by the end value of barn 2. Moreover, the reference to the loss value of the holiday cottage appears to relate to the first floor of barn 1, which is not in holiday use and would be unaffected by the approved conversion of barn 2.
27. The FVA suggests that the developer's return would typically be 25% of the gross development value for a small project. Even if the approved conversion of barn 2 was not a financially attractive proposition for a commercial developer, it has not been demonstrated that a private buyer, such as a self-build or custom house builder, would not wish to convert the barn to live in.

28. Consequently, and taking into account the uncertainties surrounding the necessary works and the end value of the converted barn, I am not persuaded that the approved conversion of barn 2 would not be viable.

Policy considerations

29. Policy HC1 of the Peak District National Park Core Strategy Development Plan Document Adopted October 2011 (the CS) states that provision will not be made for housing solely to meet open market demand. Exceptionally, new housing (either newly built or from re-use of an existing building) can be accepted where it meets listed criteria including that it is required in order to achieve conservation and/or enhancement of valued vernacular buildings. Policy DMC10 of the Peak District National Park Development Management Policies Part 2 of the Local Plan for the Peak District National Park Adopted May 2019 (the DMP) clarifies that this exception applies to non-designated heritage assets where it can be demonstrated that conversion to a market dwelling is required in order to achieve the conservation of the heritage asset.
30. I note the Council generally considers that the conversion of barns is necessary to achieve their conservation, because agricultural use does not achieve conservation of buildings in the long-term. However, barn 2 is acknowledged to be in reasonable condition. There have been works to its roof, including insulation and boarding and the installation of roof lights. The first floor, which is only accessible via the first floor of barn 1, benefits from double-glazed windows and a wood burning stove with flue has been installed. Therefore, based on the evidence before me, the proposal does not appear strictly necessary to achieve the conservation of barn 2.
31. Barn 1 has been converted and the proposal is not required to achieve its conservation or enhancement. Furthermore, it has not been demonstrated that the conversion of the first floor of barn 1 to an open market dwelling is necessary to enable the conservation of barn 2. Even if the approved conversion of barn 2 was not viable, neither the extent of the conservation deficit nor the extent of enabling development required has been established. It has not been demonstrated that the proposal would be the minimum development necessary to achieve the conservation of barn 2. There is little evidence that alternative solutions, including funding or alternative owners, have been explored or discounted.
32. Therefore, the proposal would not be in accordance with local and national planning policy for residential development, with particular reference to the conservation and enhancement of non-designated heritage assets. It would conflict with Policies HC1 of the CS and DMC10 of the DMP. It would also conflict with the aims of the National Planning Policy Framework (the Framework) in relation to non-designated heritage assets and rural housing.

Impacts on biodiversity

33. The submitted bat report was carried out in 2013 in connection with earlier proposals. It was caveated to the effect that a further daytime inspection for bats would be required if development had not begun within 12 months of the survey. Following the submission of subsequent applications without updated surveys, the Council's ecologist visited the site in 2018 to assess the need for further survey. Barn 3 was noted to offer few opportunities for roosting bats but barn 2 had many external cracks and crevices that could be used for

- roosting. Recommendations were made accordingly, based on the works proposed at that time, for the avoidance of impacts on bats and bat roosts.
34. The Government has published standing advice for local planning authorities to assess impacts of development on bats. This states that bats can be affected by construction work including barn conversions. Surveys will be required if the area includes buildings that bats tend to use. Features that increase the likelihood of bats using a building include if it was built before the early 20th century, cracks and crevices, a roof warmed by the sun, entrances bats can fly into, and large roof timbers with cracks, joints and holes.
35. For these reasons, the Council did not need to consult with its ecologist to understand the appeal site is suitable to support roosting bats or that bats and bat roosts could be affected. The Planning Practice Guidance advises that where proposals are likely to affect a protected species, permission can only be granted if an appropriate survey has been carried out and subject to any necessary proposals for mitigation being acceptable.
36. No up-to-date information in the form of a daytime inspection by an appropriate professional has been provided, either with the application or the appeal. There is little evidence before me to demonstrate that the visit by the Council's ecologist in 2018 constitutes an up to date bat survey, in part because it relates to a different scheme. Given the elapse of time and in the absence of further information, I cannot be certain that bats would be absent or that, if present, they would not be affected by the proposed works.
37. The Council did not request an updated bat survey either at validation or during the processing of the planning application. Consequently, and in the absence of a decision notice, the appellant was unaware that this matter would need to be addressed in the appeal. However, the Council's concerns are substantiated in its evidence. Moreover, the standing advice is clear that preliminary bat roost assessments, including daytime building inspections as would be required here in the first instance, can be carried out at any time of year.
38. Therefore, there is insufficient information to assess the effects of the proposal on bats. The proposal would conflict with the biodiversity, nature conservation and protected species aims of Policies GSP1 and L2 of the CS and Policies DMC11 and DMC12 of the DMP. The proposal would also conflict with the policies in the Framework and the Planning Practice Guidance that relate to protected species.

Other Considerations

Scheme Benefits

39. Heritage assets are irreplaceable resources that contribute to the quality of life of existing and future generations. Consequently, the conservation of the vernacular barn 2 would be a benefit. However, my attention has been drawn to an appeal decision⁵ where the Inspector found that the conservation of an agricultural barn that was neither disused nor redundant, and that had benefited from substantial repairs, was not dependent on its conversion. In this case, barn 2 is in reasonable condition and works have been carried out to it. It is not disused or redundant. Its upper floor in particular appears well used in

⁵ APP/M9496/W/15/3138559

association with the residential use of the first floor of barn 1. Strictly therefore, and taking into account the extant planning permission, there is little evidence that the conservation of barn 2 is dependent on the appeal proposal. This carries limited weight in favour of the appeal scheme.

40. The pole barn is in the setting of the CA. It is a modern and discordant feature in juxtaposition with nearby historic stone buildings. However, by virtue of topography and its relationship to the built environment, there are relatively limited public views of the pole barn. Nevertheless, its removal would enhance the setting of the designated heritage asset and this would be a benefit in the context of the CA as a whole.
41. The proposal would remove barn 3, which is the first building on the outskirts of Abney. It is a modern portal frame building, but it is finished in stone. Outwardly it has a characteristic rural agricultural appearance and it is not visually obtrusive or discordant. Its removal would reveal the side elevation of barn 2 and the historic layout of the vernacular barns. However, while this would be a public benefit, it would be offset by the visual impact of the alterations and the residential use of barn 2. Overall, the removal of barn 3 carries limited weight in favour of the scheme.
42. As with the 2018 planning permission for conversion of barn 2, the appeal scheme would mean that the earlier approved holiday cottage formed from barn 3 could not be constructed. The appellant states that if the appeal should fail, this would be the fallback position. The parties agree that the barn 3 holiday cottage would not make a positive contribution to the CA. While this may be so, the partial demolition of barn 3 and the resulting separation of the holiday cottage from barn 2 would better reveal the vernacular barns. On the basis that there would be both public disbenefits and benefits to the CA from the fallback position, this carries only limited weight in favour of the proposal.

The UU

43. The completed UU contains 3 obligations that would come into effect if planning permission was granted. I have considered whether the obligations would meet the tests in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010.
44. The first obligation makes provision for the demolition of the pole barn before development commences. The removal of the pole barn is not necessary in order to convert either barn 1 or barn 2 to a market dwelling. However, its removal is proposed as part of the appeal scheme and it would be a benefit to the CA. Consequently, the obligation is necessary and directly related to the development and it therefore meets the tests.
45. The second obligation relates to the demolition of barn 3 and the removal of materials from site prior to commencement. Having regard to the submitted plans, including the location of the proposed residential garden, I am satisfied that the obligation is necessary, directly related to the development and fairly and reasonably related in kind. Therefore, it meets the tests.
46. The final obligation specifies that no further work shall be carried out under planning permissions refs NP/DDD/0802/430, NP/DDD/0503/268 or NP/DDD/0410/0317, which relate to the conversion of barns 1-3 to holiday accommodation. The principal effect of this would be that the detached holiday

cottage formed from part of barn 3 could not be constructed. I am satisfied that the obligation meets the tests as it would be necessary, directly related, and fairly and reasonably related in scale and kind to the development.

47. The Council suggests additional obligations would be necessary and these were discussed at the Hearing. Notwithstanding the merits of the suggested additional obligations, these are not part of the signed and dated UU that is before me.

Abney CA

48. The Council has no concerns in relation to the impact of the proposal on Abney CA. However, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The proposal would retain the valued vernacular buildings. Barn 3 does not make a positive contribution to the significance of the CA and its removal would not harm the heritage asset. The removal of the pole barn, which is discordant although not prominent, would enhance the setting of the CA. Consequently, the appeal scheme would not result in harm to the designated heritage asset.

Planning Balance

49. The Framework advises local planning authorities to assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, in this case the non-designated barn 2, outweigh the disbenefits of departing from those policies.
50. In applying the Council's rural housing policies, it has not been demonstrated that the proposed market dwelling would be necessary to secure the conservation of barn 1 nor that it would be either necessary or proportionate to achieve the conservation of barn 2. This is a harm that carries moderate negative weight. The harm to protected species also weighs against the proposal to a moderate degree.
51. The Framework states that the effects of an application on the significance of a non-designated heritage asset should be taken into account and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
52. The conversion of barn 2 would detract from its vernacular character and appearance and there would be a loss of historic fabric. While mitigation in the form of a scheme of historic building recording could be secured by planning condition, nevertheless there would be harm, albeit minor, to the historic interest and significance of barn 2. Previous planning permissions have established the principle of converting barn 2 to secure its conservation in the long-term. However, barn 2 is not derelict nor unused and works have been carried out to maintain it in reasonable condition. Consequently, the conversion of barn 2 carries limited positive weight, taking into account the harm to the non-designated heritage asset.
53. The removal of barn 3 and the pole barn would be secured by the UU. The removal of barn 3, which would reveal the side elevation of barn 2, carries limited weight in favour of the proposal. The removal of the pole barn would enhance the setting of the CA but, in view of its small size and restricted

visibility in the context of the CA as a whole, this carries limited weight in favour of the scheme. The UU would also make provision that no further works in association with several earlier planning permissions would be carried out. Given that barn 1 has already been converted and the holiday cottage incorporating part of barn 3 could not be constructed if the appeal scheme was implemented, this obligation carries limited positive weight. Furthermore, these benefits would in any case be similarly achieved by the extant planning permission, which has not been robustly demonstrated to be either unfeasible or unviable.

54. On balance, neither the various limited benefits of the scheme nor the fallback position, if the appeal should fail, outweigh the conflict with the development plan rural housing policies and the harm to protected species.

Conclusion

55. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
56. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Roger Yarwood (Planning Consultant)

Mr Antony Oliphant (Director Rural Energy projects, Savills UK)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Steven Wigglesworth (planning officer)

Mr John Keeley (planning officer)

Ms Karen Harrison (legal and democratic services)

Ms Joanne Cooper (legal and democratic services)

Mr Peter Milner (Milner Commercial Chartered Surveyors)

INTERESTED PERSONS:

Professor Mark L Everard (neighbouring residential occupier)