
Appeal Decisions

Site visit made on 2 November 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 01 December 2021

Appeal A: APP/H1033/X/21/3276660

Fields Head Cottage, Field Head, Glossop SK13 8NX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Dr Kenneth Wood against the decision of High Peak Borough Council.
 - The application Ref HPK/2020/0450, dated 20 October 2020, was refused by notice dated 3 February 2021.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is parking domestic and agricultural vehicles.
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Appeal B: APP/H1033/W/21/3275047

Fields Head Cottage, Field Head, Glossop SK13 8NX

- 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 Dr Kenneth Wood against the decision of High Peak Borough Council.
 - The application Ref: HPK/2020/0539, dated 7 December 2020, was refused by notice dated 11 February 2021.
 - The development proposed is conversion of agricultural land on north, west and south of barn, to parking area for up to five cars, two agricultural vehicles.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Appeal A

Main Issue

3. The main issue is whether the Council's refusal to issue an LDC was well founded. In this case that will turn on whether the appellant has proved on the balance of probability that the use of the property changed to parking domestic and agricultural vehicles on or before 20 October 2010 and that the use then continued without significant interruption for ten years after the date of the change.

Reasons

4. In an appeal relating to a LDC the onus of proving the relevant facts rests with the appellant, and the standard of evidence is the balance of probabilities. The appellant's own evidence does not need to be corroborated with independent evidence, and if there is no evidence to contradict or otherwise make the appellant's version of events less than probable, the appellant's evidence alone may be sufficient to justify the grant of a certificate provided that it is sufficiently precise and unambiguous.
5. The application included an application form, location plan at a scale of 1:1250, plan at 1:1250 showing a parking area on the menage, various photographs, including aerial photographs and a letter from the occupant of Fields Head Cottage.
6. The evidence submitted by the appellant is rather confusing and contradictory with respect to the precise location of parking and the location plan includes a wide area but the site plan includes only the northern area of the menage (shown as an area of approximately 11 metres by 17 metres) as a parking area.
7. In addition, the information submitted in the application form is not consistent. The applicant states that three vehicles plus family visitors, occasional tradespeople and customers have used the area for parking since 2000 or before. The form then goes on to state that the use has been longstanding and well in excess of ten years; the current pattern of use began when the tip was topped and levelled about 35 years ago or more. Additional evidence from the occupant of Fields Head Cottage states that since 2005 she has regularly parked on the former menage and is aware of parking on the menage since the 1970s. Not only are the dates given vague and imprecise, but there is a wide range of dates given for the use of the land in question for parking. There is insufficient evidence before me that the use of the land has been continuous.
8. The photographs submitted by the appellant do not appear to show parking on the land in question, but the evidence submitted by the Council includes aerial photographs from 2011 and 2018 showing vehicles parked on the menage, but not in the precise location identified by the appellant as being the parking area. Photographs from 2011 appear to show vehicles parked on part of the menage and there is also photographic evidence of tarmac, loss of vegetation and vehicle tyre tracks. Whilst I agree that this does show some use of parts of the land for vehicle parking it is not conclusive with respect to specific dates or continuous use on the land to which the application relates.
9. Therefore, although there is some evidence of the use of the land for parking during the material period it is generally imprecise and insufficient for me to conclude that on the balance of probabilities the property changed to the identified use on or before 20 October 2010 and that the use then continued without significant interruption for ten years after the date of the change.

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of parking domestic and agricultural vehicles was well-founded and that the appeal should fail. I will

exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Appeal B

Main Issues

11. The appeal site is in the Green Belt and therefore main issues are:

- whether the development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
- the effect on the openness of the Green Belt and the purposes of including within it;
- the effect on the character and appearance of the area; and
- if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Inappropriate Development

12. The Framework attaches great importance to the Green Belt and inappropriate development is, by definition, harmful to the Green Belt and should not be approved except where there are very special circumstances. When determining applications substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the harm to the Green Belt by way of inappropriateness, and any other harm, is clearly outweighed by other considerations.

13. The Framework states that material changes in the use of land are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. My conclusions on the next issues, the effect on Green Belt openness and purposes and the effect on the character and appearance of the area, will determine whether or not the development is inappropriate.

Green Belt Openness and Purposes

14. The parking of agricultural vehicles on the land may not be inappropriate if they are to be used in connection with agricultural land and, indeed, would not constitute a material change in the use of the land. However, permanent parking of other vehicles would harm the openness of the Green Belt. The level of harm would be moderate in this case since the vehicles are proposed to be parked against an existing building. Nonetheless, I conclude that the development would not preserve the openness of the Green Belt.

15. Furthermore, the development impacts on the purpose of safeguarding the countryside from encroachment. Although the effects are moderate, on the basis that the fundamental aim of Green Belt policy, as set out in the Framework, is to keep land permanently open, the permanent parking of 5 vehicles unconnected with agricultural operations would be sufficient to result in the development being inappropriate development in the Green Belt.

Character and Appearance

16. The land in question falls within the Settled Valley Pastures Landscape Designation according to the Council's Landscape Character Supplementary Planning Document SPD5 Adopted March 2006 (the SPD). In this area development must not erode the landscape character and sense of place.
17. The parking area is partly screened from the surrounding area by the existing adjacent building. At my site visit I noted that the land levels off from an incline from the east and therefore from close views from the east the visibility of the site is also limited. There is some landscape screening along the northern and southern boundaries which also contribute to screening parked vehicles. However, during winter months when the trees are not in leaf the views of the vehicles are more open, particularly from the nearby public footpath. From a visual point of view the vehicles contrast greatly with the mainly agricultural surroundings and contribute to creating visual clutter around the existing building. As such they are at odds with the surrounding landscape, constituting a domestic and alien feature in the countryside.
18. Therefore, on this issue I conclude that the development is harmful to the character and appearance of the area and conflicts with Policies EQ2 and EQ3 of the High Peak Local Plan Adopted April 2016 (the LP), the SPD and the Framework. Among other objectives these seek to protect, enhance and restore landscape character for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the area and control development to protect the landscape's character and distinctiveness.

Other Considerations

19. The appellant states that the vehicles will only be parked when they are out of use. He goes on to state that this is as a result of the Covid-19 pandemic but there may be other times such as awaiting use or after purchase, for example. The vehicles may require some routine servicing at the site such as checking engine oil levels and tyre pressure. No additional surface treatment is needed so the land will remain covered in grass. No details of business activity have been provided, but it appears that some vehicles are associated with a taxi business. Permanent use of the land is sought whereas the effects of the pandemic are likely to be short term and provide inadequate justification for the permanent change of use of the land for parking of vehicles. It is not clear why the vehicles need to be parked on this site rather than in an alternative location.
20. Consequently, in this case there is insufficient evidence before me that demonstrates that very special circumstances exist.

Conclusions

21. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Although in this case the effects on openness and the Green Belt purpose of safeguarding the countryside from encroachment would be moderate substantial weight should still be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm identified is clearly outweighed by other considerations.

22. I give limited weight to the argument advanced by the appellant with regard to the need to use the land for parking vehicles. I have also found harm to the openness of the Green Belt and character and appearance of the area to which I give significant weight. Therefore, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
23. For the reasons given above the development is contrary to Policy EQ4 of the LP and the Framework and appeal fails.

A A Phillips

INSPECTOR