



Appeal Decision

Site visit made on 1 February 2023

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2023

Appeal Ref: APP/M9496/W/22/3303155

The Old Barn, Main Road, Flagg, Derbyshire SK17 9QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs G Blythe against the decision of Peak District National Park Authority.
- The application Ref NP/DDD/0422/0472, dated 31 March 2022, was refused by notice dated 30 May 2022.
- The application sought planning permission for conversion of barn to dwelling without complying with a condition attached to planning permission Ref NP/DDD/1200/506, dated 26 January 2001.
- The condition in dispute is No. 5 which states that:
Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking or re-enacting that Order) no alterations to the external appearance of the dwelling shall be carried out and no extensions, porches, ancillary buildings, satellite antenna, oil or gas tanks, gates, fences, walls or other means of boundary enclosure shall be erected on the site without the National Park Authority's prior written consent.
- The reason given for the condition is:
Permission has been granted for the conversion of the barn in order to retain a building of architectural merit. The extension or alteration of the converted barn by features unrelated to its original design and appearance would be likely to spoil the character of the barn and the locality.

Decision

1. The appeal is allowed and planning permission is granted for conversion of barn to dwelling in accordance with the application NP/DDD/0422/0472, dated 31 March 2022, without complying with condition No. 5 set out in planning permission reference NP/DDD/1200/506 granted on 26 January 2001, but otherwise subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Planning permission was granted in 2001 for the conversion of the Old Barn to residential use¹. According to the original decision notice, the permission was granted in order to retain a building of architectural merit. The scheme was subsequently implemented by the appellant, and the Old Barn has provided a family home for the past 20 years.

¹ Application ref NP/DDD/1200/506

3. The 2001 grant of planning permission was subject to a number of conditions, including No. 5, the effect of which is to remove various permitted development rights. The current appeal seeks to remove this condition. No other changes to the original permission are sought.
4. The appeal site is within the Peak District National Park (PDNP). Paragraph 176 of the National Planning Policy Framework (the Framework) indicates that in national parks, great weight should be given to conserving and enhancing landscape and scenic beauty. Great weight should also be given to the conservation and enhancement of cultural heritage.
5. The Old Barn is identified in the Historic Buildings Register as a nineteenth century outfarm and is considered by the local planning authority to be a non-designated heritage asset. The appellant has not disputed this, and I have no reason to take a different view. I have therefore treated the Old Barn as a non-designated heritage asset in the determination of this appeal.

Main Issue

6. The main issue is whether condition No. 5 is reasonable and necessary, having regard to the Old Barn as a non-designated heritage asset within the PDNP.

Reasons

7. The Old Barn is a traditional stone barn with slate roof. It is located within the small farming village of Flagg, which is characterised by simple, limestone buildings, barns and dwellings, dotted along Main Road.
8. The Peak District Landscape Character Assessment 2009 (LCA) notes that the character of the White Peak is typified by the historic pattern and distinctive vernacular style of its small limestone villages, including Flagg. The also LCA notes that traditional farm buildings are of significant value to the landscape character of the White Peak.
9. Although no longer in agricultural use, the Old Barn has been sensitively converted by the appellant, and retains its appearance as a simple stone outfarm. As a non-designated heritage asset, the significance of Old Barn lies in its historic and aesthetic value, and its contribution to our appreciation of the agricultural roots of this area. Its traditional appearance and prominent location on Main Road means that the Old Barn also contributes positively to the landscape character of both Flagg and the wider PDNP.
10. Aerial photos provided by the appellant show that, when planning permission was originally granted in 2001, the Old Barn was in the corner of an otherwise undeveloped field. Since then, there have been a number of buildings and structures erected around the Barn, including a stone stable block and a manège. Despite these changes to its immediate setting, the Old Barn retains the appearance of a traditional agricultural building in a rural setting.
11. Framework Paragraph 54 says that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. The Planning Practice Guidance also says that conditions restricting the future exercise of permitted development rights may not pass the test of reasonableness or necessity (paragraph 21a-017-20190723). Condition 5 was imposed prior to the publication of the Framework and

Planning Practice Guidance, so in determining this appeal I have considered whether the condition accords with the guidance now in place.

12. The Old Barn is not located within a conservation area, but it is within a national park, which is referred to within the General Permitted Development Order 2015 (GPDO) as article 2(3) land.
13. The significance of the Old Barn as a non-designated heritage asset, and its contribution to the landscape character of the area, are derived from its traditional appearance. These factors, along with its prominent location along Main Road, mean that the building and its setting are particularly sensitive to change. Even taking account of the more restrictive approach in article 2(3) areas, changes which could take place under permitted development rights, such as a rear extension or porch, could detract from the simple appearance and plan form of the existing building. Without appropriate controls in place, there is the potential for such development to cause significant harm to the character of this historic barn.
14. Permitted development rights under Class E of the GPDO provide for additional ancillary buildings to be erected, and for provision of containers for the storage of domestic fuel. Again, there are additional restrictions in national parks, but provision remains for buildings and structures to be erected within the curtilage of a dwelling, subject to the detailed provisions set out in the GPDO.
15. The rear garden area of The Old Barn is readily visible from Main Road, over the boundary drystone wall. The erection of additional ancillary buildings and containers within the curtilage could lead to visual clutter and result in a more domestic appearance to the property. Without appropriate controls, there is the potential for such development to detract from both the setting of the non-designated heritage asset and its contribution to the landscape character of Flagg and the wider PDNP.
16. The appellant has indicated that, since the building was originally converted, subsequent approvals have resulted in an enlargement of the domestic curtilage, and the construction of a stable building within that area. These changes have been undertaken without eroding the character of the building, and I have no reason to suppose that the appellant would make any alterations that would be harmful in the future. However, planning permission runs with the land, and there is no guarantee that future owners would treat the building with such respect.
17. Just because past changes have been made without causing harm, does not mean that any future alterations would necessarily be acceptable. To protect the significance of the Old Barn and its contribution to the wider landscape character of the area, I find that the continued restriction of permitted development rights for extensions and alterations; porches; ancillary buildings and fuel tanks is reasonable and necessary.
18. Within a national park, additional restrictions mean that microwave antenna (including satellite dishes) would not benefit from permitted development rights if they were located on a chimney, wall or roof slope which faces onto, and is visible from, a highway. Given these provisions, and taking account of the likely temporary and reversible nature of such minor development, I am satisfied that additional control is not required for satellite antenna. Reference to this form of development can therefore be removed from condition No. 5.

19. Drystone walls and traditional 5 bar gates form an important part of the agricultural character of the area. The existing walls and timber gates which surround The Old Barn contribute positively to the setting of the non-designated heritage asset; the character of Flagg and the wider PDNP. However, as required by condition 8 of the original grant of planning permission, stone boundary walls have been put in place around the residential curtilage, and there is nothing to suggest that any additional boundary treatment is required. Whilst there is a risk that the boundary walls and gates could be removed and replaced with something else in future, in their current, well-maintained condition, this seems unlikely.
20. Given these circumstances, the removal of permitted development rights for boundary walls, fences and gates does not meet the tests of reasonableness and necessity, and should be excluded from condition No. 5.
21. The appellant has referred to the case of Stone Beck, a former 1950s workshop at Longnor which has been converted to a dwelling. The grant of planning permission for the conversion of the building included a condition restricting permitted development rights. This was subsequently removed at appeal².
22. Like the appeal before me, the dwelling at Stone Beck was in the PDNP. It was also within a conservation area. Despite that, the Inspector found no convincing evidence that changes which might result from permitted development rights would be harmful, even if they resulted in a more domestic appearance.
23. The case before me differs in that it is concerned with a historic barn, the significance of which derives from its simple, agricultural appearance. There is a risk that even minor extensions and alternations to the Old Barn could erode that character, and cause significant harm to the building and its wider rural setting. As such, the Stone Beck case does not provide a reason to arrive at a different view in the current appeal.
24. The appellant has also referred to an application to install solar panels which was approved at The Old Coal Yard, Froggatt³. In that case, even though permitted development rights had been removed, the proposed solar panels were considered to be acceptable and planning permission was granted. However, that alone does not mean that additional control over development was not required. Indeed, the appellant has provided a copy of the planning officer's report for the Froggatt case, and I note reference to the need for a condition requiring a variation in the number and layout of the panels. This suggests that the imposition of additional planning controls through the restriction of permitted development rights resulted in a scheme which, from a visual perspective, was improved. Such a situation could also apply to proposals for development at the Old Barn. The Froggatt case does not provide a reason to remove condition No. 5 in its entirety.
25. In light of the above considerations, I conclude that condition No. 5 remains reasonable and necessary in relation to extensions and alterations, porches, curtilage buildings and fuel tanks. Without these additional controls, there is a risk that conversion of Old Barn to residential use could result in conflict with Policies L1 and L3 of the PDNP Core Strategy 2011, which require that

² Appeal ref APP/M9496/A/14/2219276

³ Application ref NP/DDD/1119/1250

development conserves valued landscape character and cultural heritage assets.

26. Notwithstanding that, for the reasons set out above, the exclusion of permitted development rights for satellite antenna and boundary walls, fences and gates no longer meets the relevant tests. Condition No. 5 should therefore be modified accordingly.

Conditions

27. I have revised condition No. 5 (renumbered 4) as previously described, for the reasons set out above. In addition, I have removed reference to obtaining the written consent of the National Park Authority from that condition, as this gives the impression that an alternative route may be available to obtaining approval for proposals excluded from permitted development rights, rather than an application for planning permission.
28. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. Condition No. 1, relating to implementation, is no longer required as the building has already been converted. Original conditions Nos. 6, 7 and 11 all relate to matters to be addressed prior to the commencement and/or use of the development. They are no longer relevant, so I have not re-imposed them. I have no information before me about the status of the other conditions imposed on the original planning permission, but as they may still be relevant, I have reimposed them (renumbered as appropriate).

Conclusion

29. For the reasons explained above, I have found that original condition No.5 remains reasonable and necessary in respect of the removal of permitted development rights for alterations to the building, extensions, porches, ancillary buildings and fuel tanks to be reasonable and necessary. However, the removal of permitted development rights for satellite antenna and boundary walls, fences and gates does not meet the relevant tests, so I have amended the condition accordingly.
30. I appreciate that the outcome does not fully reflect the appellant's aspirations, but as I have revised the disputed condition (albeit only in part), the appeal is allowed.

R Morgan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted plans, subject to the following conditions or modifications:
 - i) the pointing to all new external stonework shall be bag or brushed-rubbed and slightly recessed from the external face of the stonework using a traditional lime mortar mix;
 - ii) prior to the commencement of the development full details of the precise design of the windows and doors, including and glazing bar detail and external finish/treatment, shall be submitted to and approved by the National Park Authority. The scheme shall then be carried out in accordance with the agreed details.
- 2) The conversion hereby approved shall be carried out entirely within the shell of the existing building. No part of the building shall be rebuilt without the written consent of the National Park Authority.
- 3) All pipework other than rainwater goods, shall be completely internal within the building.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no alterations to the external appearance of the dwelling shall be carried out and no extensions, porches, ancillary buildings, or oil or gas tanks shall be erected on the site other than those expressly authorised by this permission.
- 5) 7) The residential curtilage of the approved dwelling shall be defined with a drystone wall, constructed in locally obtained natural stone, to a height of 1.2m – 1.5m before the dwelling is occupied.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the National Park Authority and these works shall be carried out as approved. These details shall including proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg drainage power, communications cables, pipelines etc indicating lines, manholes, supports etc); retained historic landscape features and proposals for restoration, where relevant.

Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment; schedules of plants, noting species, plant sizes and proposed number/densities where appropriate, implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the National Park Authority.

- 7) The foul drainage from the proposed development shall be discharged to a septic tank and soakaway system which meets the requirements of British Standard BS 6297:1983 and which complies with the following:
 - a) there is no connection to any watercourse or land drainage system and no part of the soakaway system is situated within 10 metres of any ditch or watercourse.
 - b) porosity tests are carried out to the satisfaction of the National Park Authority to demonstrate that suitable subsoil and adequate land area is available for the soakaway (BS 6297:1983 refers).
- 8) The parking and manoeuvring area, including garaging, shown on the approved plans shall remain unobstructed for use at all times.