



Appeal Decision

Site visit made on 21 February 2023

by Samuel Watson BA (Hons) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 April 2023

Appeal Ref: APP/M9496/W/22/3307714

Old Post Office Main Street, Birchover DE4 2BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Nick Russell against the decision of Peak District National Park Authority.
 - The application Ref NP/DDD/0622/0851, dated 29 June 2022, was approved on 24 August 2022 and planning permission was granted subject to conditions.
 - The development permitted is described as "retrospective application for alterations and extension of dwelling".
 - The condition in dispute is No 2 which states that: Within 6 months of the granting of this permission a detailed drawing of a replacement window opening and window frame of a design and detail that reflects the existing dwelling shall be submitted to and approved in writing by the National Park Authority. Within 12 months of the granting of this permission, the bay window on the front elevation of the property shall be completely removed and replaced in full accordance with the approved scheme.
 - The reason given for the condition is: To regularise the unauthorised development and to protect the character, visual amenity and special quality of this part of the National Park.
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Decision

1. The appeal is allowed and the planning permission Ref NP/DDD/0622/0851 for Retrospective application for alterations and extension of dwelling at Old Post Office, Main Street, Birchover, Matlock, Derbyshire DE4 2BN granted on the 24 August 2022 by the Peak District National Park Authority, is varied by deleting condition 2 and substituting it for the following condition:
 - 1) Within 6 months of the date of this appeal decision, detailed drawings of a suitable window opening and frame to replace the bay window on the front elevation of the dwelling shall be submitted to and approved in writing by the National Park Authority. Within 12 months of the date of this appeal decision, the bay window on the front elevation of the dwelling shall be completely removed and replaced in full accordance with the approved details.

Background and Main Issue

2. Planning application NP/DDD/0622/0851 was submitted in order to retrospectively regularise a number of works and alterations to the host dwelling. These works included the erection of a bay window on the front elevation. Planning permission was granted by the Authority for the works with the exception of the bay window. Condition number 2, as set out above, was attached in order to secure the removal of the bay window. I understand that no subsequent information has been submitted to the authority regarding the

removal of the window and the bay window was still present at the time of my visit.

3. Therefore, the main issue is whether the condition is necessary and reasonable having regard to the character and appearance of the surrounding area, including the Birchover Conservation Area (the BCA).

Reasons

4. The appeal site is within Birchover, a small settlement covered by the BCA. The area is predominantly characterised by a variety of simple, stone-built dwellings with limited examples of detailing. The significance of the BCA stems primarily from the irregular pattern of development that is focused on to Main Street and the continuity of materials and largely plain styling of dwellings. It is also of importance to the interest and significance of the BCA that the historic buildings are largely intact.
5. The host dwelling itself is set back from the road and appears to have formerly been a post office. The frontage consists of five simple windows spread across the ground and first floors, the bay window upon which this appeal centres, and a front door. Evidence is present in the stonework of the front elevation of previous alterations and changes to the property.
6. The bay window is square in form finished in stone and timber with a lead roof above. The timber portion has carved details, including the corbels and the bases of the corner mullions. Consequently, in relation to the otherwise plain and simple appearance of the dwelling's frontage, the bay window appears as a very ornate feature. Moreover, it projects forward of the otherwise flat front elevation and, I noted during my site visit, front facing bay windows are not typical for dwellings of this style. It therefore jars with the host dwelling's appearance and erodes its contribution to the wider historic area. This is exacerbated by the prominent location of the bay window at the front of the dwelling where it is clearly visible in public views from the street.
7. Should Condition 2 of the above permission be removed, it would result in this feature being retained and harm occurring to the BCA. Against this background, and given the scale of the development, I find that less than substantial harm to the significance of the designated heritage asset would occur. Although less than substantial, the Framework is clear that great weight should be given to any asset's conservation. Paragraph 202 of the National Planning Policy Framework (the Framework) advises that this harm should be weighed against the public benefits of the proposal. However, the appellant has not put forward any such benefits and the proposal would therefore fail to satisfy the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990.
8. I am, however, mindful that the requirements of condition 2 state that detailed information on the removal of the bay window is to be submitted within 6 months of the permission and that the bay window is to be removed within 12 months. These dates would, respectively, be in February and August of 2023. I understand that the development is in breach of the first portion of this condition as no further information has been submitted to, or approved by, the Authority.

9. As it would not be possible to comply with this condition, I find that it would be unreasonable to retain it. However, as I have found that such a condition would be necessary, for the reasons above, it would be reasonable to substitute this condition with a modified one that could be complied with. In this instance modifying the condition so as to require the 6 and 12 month timescales to start at date of this decision would be sufficient.
10. A condition securing the replacement of the bay window is necessary to ensure the protection of the character and appearance of the surrounding area and the significance of the BCA. Therefore, the removal of condition 2 without its substitution by another suitably worded condition would conflict with Policies GSP1, GSP2, GSP3 and L3 of the Peak District National Park Local Development Framework (the LDF, October 2011) and Policies DMC3, DMC5, DMC8 and DMH7 of the Development Management Policies (May 2019). These policies collectively, and amongst other matters, require that developments respect, conserve and, where possible, enhance their character and setting, including the built environment. They also require that the cultural heritage and designated heritage assets are demonstrably protected by developments. The proposal would also conflict with the design and heritage aims of chapters 12 and 16 of Paragraph 130 of the Framework. Whilst the Authority have also referred to LDF Policy DS1, this is not directly relevant to the matters upon which this appeal turns.

Conclusion

11. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting, and substituting, Condition 2.

Samuel Watson

INSPECTOR