



Appeal Decision

Site visit made on 11 April 2023

by H Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2023

Appeal Ref: APP/H1033/W/22/3311107

Hilltop Cottage Stables, Hilltop Road, Glossop SK13 7QJ

- 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 Mrs P Sykes against the decision of High Peak Borough Council.
- The application Ref HPK/2022/0115, dated 11 March 2022, was approved on 27 September 2022 and planning permission was granted subject to conditions.
- The development permitted is the demolition of existing stables and outbuildings and erection of single storey dwelling and associated works.
- The conditions in dispute are Nos 5, 6, 7, 8, 10, 12, 13 and 15 which state that:
 - 5) *Development shall not commence until a site risk assessment has been undertaken to assess the nature and extent of any contamination on the site in accordance with a scheme to be agreed with the Local Planning Authority. Once completed, a written report of the findings and recommendations shall be submitted and approved in writing by the Local Planning Authority. If the site risk assessment indicates that potential risks exist, development shall not commence until a detailed remediation strategy to bring the site to a condition suitable for the intended use has been prepared, and is subject to the approval in writing by the Local Planning Authority. The approved remediation strategy shall be implemented in full. Following completion of measures identified in the approved remediation scheme and prior to bringing the development into first use, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.*
 - 6) *There shall be no visible dust emissions beyond the site boundary associated with construction/demolition works undertaken at the site. In controlling dust on site, the contractor shall have due regard to the Building Research Establishment Document 'Control of Dust from Construction and Demolition Activities' (BR456) and the Institute of Air Quality Managements 'Assessment of dust from demolition and Construction' (2014).*
 - 7) *Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. There shall be no fires lit on the site for purpose of disposing of demolition materials. Any open fires that arise shall be extinguished without delay.*
 - 8) *If piling is necessary, a written method statement shall be submitted to the Local Planning Authority. The affects of noise generation (hours of operation) shall be considered, and shall include noise mitigation measures consistent with best practical means. No piling shall take place until the method statement has been approved. No piling shall take place outside the hours 09:00 hours to 16:00 hours Mondays to Fridays.*
 - 10) *Prior to commencement of development the developer must either submit evidence that the building was built post 2000 or submit a intrusive pre-demolition/refurbishment asbestos survey in accordance with HSG264 and a mitigation plan to reduce risks to*

potential occupiers and the wider public. The report shall be approved in writing by the Local Planning Authority. The approved mitigation scheme must be carried out in accordance with its terms.

12) The entrance gates shall be set back a minimum of 5m from the highway boundary and maintained at that distance for the life of the development unless otherwise approved in writing by the Local Planning Authority.

13) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended by The Town and Country Planning (General Permitted Development) Order 2015), or any Order revoking or re-enacting or amending that Order with or without modification, no development within Schedule 2 Part 1, Classes A, B, C, D and E and Parts 2, Class A (gates, fences and walls) shall take place within the application site boundary or within the curtilage of the dwellinghouse hereby approved, without express planning permission from the Local Planning Authority.

15) Prior to first occupation of the dwelling hereby approved, full details of all soft landscaping, to include species type, size and position shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and prior to the first occupation of the development hereby approved.

- The reasons given for the conditions are:

Conditions 5, 6, 7, 8 and 10) In the interest of residential amenity and public health in accordance with Local Plan policy EQ6 and EQ10 and paragraphs 130, 174(e) and 185 of the NPPF.

12) To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway user, In the interest of highways safety in accordance with policy CF6 of the High Peak Local Plan and NPPF paragraphs 110-111.

13) In the interests of protecting the landscape character and the openness of the Green Belt and to enable the Local Planning Authority to consider individually whether planning permission should be granted for domestic extensions/outbuildings and boundary treatments, in accordance with Policies EQ2, EQ3 and EQ4 and of the High Peak Local Plan 2016 and the National Planning Policy Framework.

15) In the interests of protecting the appearance and the landscape character of the local area in accordance with policies EQ2 and EQ6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

Decision

1. The appeal is allowed and the planning permission, Ref HPK/2022/0115, for the demolition of existing stables and outbuildings and erection of single storey dwelling and associated works at Hilltop Cottage Stables, Hilltop Road, Glossop SK13 7QJ, granted on 27 September 2022 by High Peak Borough Council, is varied by deleting conditions 6, 7, 8, and 10, and deleting and substituting conditions 5, 12, 13 and 15 for the following conditions:

(5) No development, with the exception of demolition, shall commence until a site risk assessment has been undertaken to assess the nature and extent of any contamination on the site in accordance with a scheme to be agreed with the Local Planning Authority. Once completed, a written report of the findings and recommendations shall be submitted to and approved in writing by the Local Planning Authority.

If the site risk assessment indicates that potential risks exist, development shall not commence, with the exception of demolition, until a detailed remediation strategy to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the Local Planning Authority. The approved remediation strategy shall be implemented in full. Following completion of measures identified in the approved remediation scheme and prior to bringing the development into first use, a verification

report that demonstrates the effectiveness of the remediation carried out should be submitted to and approved in writing by the Local Planning Authority. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

(12) No entrance gates shall be sited within 5 metres from the highway boundary for the lifetime of the development.

(13) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no development under Schedule 2, Part 2, Class A shall take place within the application site, other than those expressly authorised by this permission.

(15) Prior to first occupation of the dwelling hereby approved, full details of all hard and soft landscaping, to include hard surfacing materials, species type, size and position shall be submitted to and approved in writing by the Local Planning Authority. All hardstanding shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved and shall be maintained thereafter. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Applications for costs

2. An application for costs is made by Mrs P Sykes against High Peak Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. Whilst I have allowed the appeal, I have not found in favour of the appellant with regards to all conditions. My reasons in respect of each matter are set out in this decision letter.

Background and Main Issues

4. Planning permission was granted for the demolition of existing stables and outbuildings and the erection of a single storey dwelling and associated works (the planning permission)¹. This was subject to several conditions. This appeal was submitted as the appellant seeks the variation of condition 5 and the removal of conditions 6, 7, 8, 10, 12, 13 and 15.
5. The appellant seeks to vary condition 5 to allow demolition of the existing buildings to take place prior to the submission of an assessment to establish the extent of any contamination. The Council does not contest this variation. The Council has also confirmed that condition 10, which the appellant seeks to

¹ Application ref: HPK/2022/0115

remove, is not required at all. Accordingly, there is no need for me to consider these matters further.

6. In light of the above, the main issues are the effect of:

- removing conditions 6, 7 and 8 on public health and the living conditions of existing residents;
- removing condition 12 on highway safety; and
- removing conditions 13 and 15 on the character and appearance of the area.

Reasons

Public Health and Living Conditions

7. Condition 6 seeks to ensure that there are no visible dust emissions beyond the site boundary during demolition and construction works. Condition 7 restricts the burning of waste material on site. Condition 8 requires a method statement to be submitted for approval should piling works be necessary. These conditions were attached in the interests of residential amenity and public health.
8. I note there are public footpaths and residential properties located close to the appeal site. However, the planning permission granted development which is of a small scale. It is therefore unlikely to generate significant pollution issues, in the form of noise, dust and other emissions, to such a degree that would have a detrimental effect on people passing by or living in close proximity. The timeframe of demolition and construction is also likely to be limited. Moreover, it seems to me that any concerns regarding these matters could be satisfactorily addressed through other means outside of the planning regime.
9. The National Planning Policy Framework (the Framework) states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects (the six tests).
10. Having regard to the above, the aforementioned conditions do not meet the tests of necessity, thus they do not meet all of the six tests set out in the Framework. Accordingly, the removal of conditions 6, 7 and 8 does not cause the approved development to conflict with the collective aim of ensuring that developments do not result in unacceptable effects on living conditions, health and well-being by reason of noise and air pollution, as set out in Policies EQ6 and EQ10 of the High Peak Local Plan, Adopted April 2016 (the HPLP) and paragraphs 130, 174 and 185 of the Framework.

Highway Safety

11. Condition 12 states that the entrance gates shall be set back a minimum of 5 metres(m) from the highway and retained at that distance in perpetuity. This was attached to ensure parked vehicles do not overhang the highway and cause an obstruction to other highway users. However, the approved plans of the planning permission indicate that the entrance gates are to be sited approximately 10m from the highway.

12. Despite this discrepancy, it is clear that this condition also seeks to ensure that no gates are placed within 5m of the highway throughout the lifetime of the development, so as to prevent vehicles overhanging the highway.
13. Hilltop Road is largely a single width carriageway whose character and physical constraints lend itself to low vehicle numbers and speeds. Nonetheless, if gates were to be placed within 5m of the highway boundary, any persons who may visit the appeal property by vehicle and which may not gain access to the appeal site due to closed gates, would have very restricted/no parking options along this stretch of Hilltop Road. Any vehicles which may be parked outside any gates within 5m of the highway would therefore likely cause an obstruction to passing vehicles.
14. Accordingly, a condition to this effect is necessary to make the development acceptable in the interests of highway safety, as set out in Policy CF6 of the HPLP and the Framework. However, I shall make minor changes to the precise wording, so as to omit unnecessary elements without altering its fundamental aim and to ensure its enforceability.

Character and Appearance

15. Condition 13 removes permitted development (PD) rights granted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for various alterations to the approved dwelling, including extensions, roof alterations and the erection of gates, fences, walls and other means of enclosure. The reason for this condition makes reference to protecting the landscape character and the openness of the Green Belt.
16. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance adds that conditions restricting the future use of PD rights or changes of use may not pass the test of reasonableness or necessity.
17. Land within the Green Belt is omitted from the definition of Article 2(3) land, that is, land which does not benefit from some PD rights. Therefore, in respect of PD, land within the Green Belt should be seen as no different as land outside of it, beyond the areas defined by Article 2(3) land. This has also been acknowledged in the appeal decisions provided by the appellant. I agree that the starting point is that PD rights should remain in place, even in the Green Belt, unless there is clear justification to withdraw them.
18. I note that the approved dwelling resulted in a reduction in floor area and volume compared to the existing buildings, thus it was determined that it did not have a greater impact on the openness of the Green Belt than the existing development. However, extensions and other alterations/additions which could be carried out to the approved dwelling under PD rights would be relatively limited in this instance, given its setback positioning within the site and its close relationship to the side and rear boundaries. My attention has not been drawn to any specific extensions or alterations which could occur and any harm that may subsequently result. As such, I am not convinced that the removal of the PD rights included within condition 13 are necessary to preserve the openness of the Green Belt.

19. The Council also makes clear that the removal of PD rights in this case was aimed at protecting the character of the area. The appeal site is located within the Settled Valley Pastures Landscape Character Area. The Landscape Character Supplementary Planning Document SPD5 March 2006 (the SPD) identifies that the key landscape characteristics of this area are the valley slopes of pastoral fields intersected by networks of winding lanes, hedgerows, dry stone walls and streams. Built form is typically limited to small, nucleated settlements and scattered stone farmsteads and cottages of traditional materials. These features give a strong sense of place to this rural landscape.
20. Similar to the above, I have not been provided with any examples of extensions or alterations, or any evidence which indicates that utilising PD rights would result in significantly greater built form than the existing development which would result in harm to this landscape character area
21. Nevertheless, the appeal site is surrounded by open countryside and views of the site are readily apparent from public vantage points. As noted, this area has a sensitive rural character. High walls and closed fences are extremely limited, with the predominant boundary type consisting of post and rail fencing, low stone walls and hedgerows.
22. The introduction of an uncharacteristic means of enclosure would be visually intrusive and harmful in this locality as they may draw the eye and interrupt the rural character. As such, the removal of PD rights concerning gates, fences, walls and other means of enclosure is necessary and reasonable as it allows for greater control to be applied.
23. Taking all the above into consideration, condition 13 is reasonable and necessary only insofar as it relates to the removal of PD rights covered by Schedule 2, Part 2, Class A of the GPDO. Therefore, the condition in its current format is not precise and I shall amend it so as it complies with the six tests.
24. I turn now to condition 15 which requires soft landscaping details to be submitted to and approved by the Council prior to first occupation of the approved dwelling. I note that the approved site plan indicates areas of garden. Although the appellant states that they do not propose any further landscaping within the site, the approved plan is nevertheless lacking in precise detail of materials and plants. It is not clear how these areas are to be finished, namely whether they are to be grassed or other.
25. Given the appeal sites sensitive location, and the large areas of garden, much of which is located forward of the approved dwelling, I consider it necessary for further detail to be submitted in due course to ensure the type and layout of landscaping is appropriate for this setting.
26. I also note the Council's concern regarding the lack of detail with regards to other landscaped areas of the site. Condition 14 of the planning permission covers details of boundary treatments and gates, however there appears to be no mechanism to secure the type of material for the areas of patio and hardstanding as shown on the approved site plan. These areas are extensive and would be readily apparent from public vantage points. Therefore, to ensure the hardstanding and other surfaces protect the sensitive characteristics of the locality, it would be pertinent for these details to be agreed prior to their installation.

27. Given the existing wording of the condition, along with the Council's stated concerns, the main parties were afforded an opportunity to comment on the introduction of hard landscaping details into condition 15. I have taken their subsequent responses into consideration.
28. In conclusion, it is necessary and reasonable to restrict PD rights and to require landscaping details to be submitted, as required by conditions 13 and 15, albeit in an amended format. Their removal would therefore be contrary to the aims of Policies EQ2 and EQ3 of the HPLP, along with the guidance in the SPD and the Framework, which collectively seek to ensure that developments protect the character of the area.

Conclusion

29. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting some of the disputed conditions, and deleting and substituting others, as set out in the formal decision.

H Ellison
INSPECTOR