



Appeal Decision

Site visit made on 23 August 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2023

Appeal Ref: APP/M9496/W/23/3317032

Old Dains Mill, Roach Road, Upper Hulme, Staffordshire ST13 8TY

- 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 Michael Jones against the decision of Peak District National Park Authority.
- The application Ref NP/SM/1022/1315, dated 23 October 2022, was refused by notice dated 31 January 2023.
- The application sought planning permission for Change of use to residential and holiday let with external alterations without complying with a condition attached to planning permission Ref NP/SM/0321/0297 dated 15 July 2021.
- The condition in dispute is No 2 which states that: *The development hereby permitted shall not be carried out otherwise than in complete accordance with the amended plan no.s L100-P2, L103-P5, L104-P2, L105-P3, L106-P2, L109-P3, L110-P2 and L118-P3 subject to the following conditions or modifications.*
- The reason given for the condition is: *For clarity and the avoidance of doubt.*

Decision

1. The appeal is allowed and planning permission is granted for the change of use to residential and holiday let with external alterations, at Old Dains Mill, Roach Road, Upper Hulme, Staffordshire ST13 8TY, in accordance with application Ref NP/SM/1022/1315, made on 23 October 2022, without complying with condition 2 of planning permission Ref NP/SM/0321/0297 dated 15 July 2021, but otherwise subject to the conditions set out in the attached schedule.

Procedural and Preliminary Matters

2. Works have commenced on site. Nevertheless, I have considered the appeal based on the plans before me.
3. The appeal is made under section 73 of the Town and Country Planning Act 1990 (as amended). I am aware from my observations on site, that conversion work undertaken to date includes the fitting of externally opening doors to the south elevation at first floor level. I understand from the submissions that the 2021 planning permission¹ included internally opening doors at this location. However, it is unclear whether this breach of the 2021 planning permission took place before or after the submission of the planning application subject of this appeal. As such, I have proceeded to consider the appeal under section 73, and not section 73A.
4. There is dispute between the main parties as to whether the appeal building should be considered as a non-designated heritage asset (NDHA). It is not

¹ NP/SM/0321/0297

identified on any NDHA local list that has been subject to formal consultation as part of any local plan review or supplementary planning guidance. However, the National Planning Practice Guidance (PPG)² sets out that local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications.

5. The evidence before me indicates that the building has undergone partial re-construction since the granting of planning permission in 2004³. This has required the use of new building materials in part (including to the roof and internally) and some aspects of the build may not have incorporated traditional materials, such as the use of modern cements/mortars. Whilst this reduces the architectural and historic significance of the building, the Heritage Statement (HS)⁴ provided, confirms that the mill has been re-built using the original collapsed stonework on site and has been restored with extreme accuracy and authenticity.
6. The appeal building provides an example of a traditional cornmill dating back to the 17th century. Its significance derives from its architectural interest as a multi-phase traditional mill building, and the understanding it provides of an important aspect of social and economic history. Therefore, the evidence before me clearly suggests that the appeal building requires consideration as a NDHA and I have done so in reaching my decision.

Background and Main Issue

7. Planning permission was granted in 2021 for the change of use of the building to residential and holiday let with external alterations, subject to a number of conditions, including condition 2 which specified the approved plans.
8. In 2022, planning permission was then sought for a revised scheme that incorporated an amended design to facilitate the addition of a projecting balcony and the erection of new fencing along the front boundary⁵. That application was refused and an appeal dismissed⁶ on the grounds that the proposal would harm the character and appearance of the host property, a non-designated heritage asset.
9. The proposal subject of this appeal also seeks the removal of condition 2 and its replacement with a condition specifying plans that incorporate an amended design to the balcony proposed to the south elevation, as well as post and rail fencing with gates, positioned to the south of the building. Whilst I have not been provided with plans showing the balcony subject of the dismissed appeal, I understand from the submissions that the balcony subject of this appeal is smaller in size and of an amended design, as a result of removing support columns.
10. The decision of the Authority to refuse the amendments to the approved plans comprising this appeal, is on the basis that the revised scheme would cause harm to the significance of a non-designated heritage asset.

² Paragraph: 040 Reference ID: 18a-040-20190723

³ The restoration of the derelict mill was approved under NP/SM/1203/0923

⁴ Heritage Statement, Commercial Archaeology, dated September 2017

⁵ Ref NP/SM/0422/0514

⁶ APP/M9496/W/22/3309565

11. The main issue is therefore the effect that varying the condition would have on the character and appearance of the host property, a non-designated heritage asset.

Reasons

12. The appeal building is a two-storey former cornmill, constructed of red sandstone with pitched roof and an adjoining waterwheel house, with restored wheel. Sandstone quoins are a feature of the building, along with sandstone architraves, lintels and sills to existing openings, including an arched former cart entrance. It lies within open countryside, to the north of the village of Upper Hulme. The mill pond remains to the north and the former corn drying house to the west. A public footpath passes through the appeal site.
13. Conversion of the building for residential purposes is underway. A number of alterations undertaken to date are domestic in appearance, most notably newly inserted fenestration, with partially glazed doors inserted in the former cart entrance and first floor loading door.
14. Paragraph 189 of the National Planning Policy Framework (NPPF) recognises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, whilst paragraph 197 requires account to be taken of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. In addition, account is to be taken of the desirability of development making a positive contribution to local character and distinctiveness. NPPF paragraph 203 is specific to NDHA's and states that when weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
15. The significance of this NDHA has been set out above. The amended plans seek to replace the approved Juliette balcony with a projecting cantilevered balcony, as well as fencing and gates to the front boundary. The Authority has raised no objections to the fencing and gates, and from my own observations, I have no reason to disagree.
16. The proposed balcony would project 1.2m from the face of the building and would be 2.2m in width. The front elevation of the cornmill is stepped and the balcony would remain set back from projecting sections of the building further west. The width of the proposed balcony would extend beyond the existing opening at first floor level and its position in relation to this opening would be offset, allowing the proposed balcony to align with the former cart entrance below. It would only extend along a small portion of the front elevation of the building and whilst larger in size than the approved Juliette balcony, it would not appear overly dominant or visually intrusive in relation to the host building.
17. The addition of the proposed balcony would not result in the loss of any original features, nor would it obscure the stone arch of the former cart entrance below. Due to its cantilevered construction, the base of the proposed balcony would appear heavier than that of the approved Juliette balcony. Nevertheless, the same style black iron balustrade is proposed, and the proposed balcony would have an uncomplicated style, reflecting the simple appearance of the building.

18. The proposed balcony would be positioned at the loading door used to provide access for sacks of grain. There is no information before me to suggest that historically there has been any balcony or other structure at this location. I accept that the proposed balcony is domestic in appearance, and that this would be out of character with this former mill building. However, planning permission already exists for double doors and a Juliette balcony at this location. Albeit somewhat larger, the harm to the character of the building resulting from the introduction of the proposed balcony would not be materially greater than that resulting from the approved Juliette balcony.
19. For these reasons, varying the condition as proposed would not materially harm the host building, a NDHA, to any greater extent than the approved scheme. Accordingly, the proposal would comply with Policies GSP3 and L3 of the Core Strategy⁷ and Policies DMC3, DMC5, DMC10 and DMH7 of the Development Management Policies document⁸. Collectively, and amongst other matters, these policies seek to ensure that new development respects, conserves and enhances all valued characteristics of a building and site, does not adversely affect the significance, character or appearance of a heritage asset, and that extensions and alterations do not detract from the character or appearance of the original building or dominate the original dwelling, particularly where it is a NDHA. Additionally, the proposed development accords with the advice within the Supplementary Planning Documents⁹, which aims to ensure that any new use respects the original character, appearance and setting of a NDHA. Further, the requirement of the NPPF to conserve such assets in a manner appropriate to their significance, would be met.

Other Matters

20. The submissions provide detailed information relating to the availability of amenity space for the property and physical issues relating to the implementation of internally opening doors. However, given my findings on the main issue, it has not been necessary for me to consider these matters further.

Conditions

21. As this appeal relates to an application under section 73 of the Town and Country Planning Act 1990, and I am only considering the disputed condition, it is necessary to reimpose those conditions from the previous permission that continue to have effect. I have therefore reviewed all the conditions previously imposed with regards to the 6 tests in Paragraph 56 of the NPPF, along with the information provided by the Authority in relation to those conditions that have been subsequently partially discharged. Both parties have had the opportunity to comment.
22. The Authority has not confirmed that the original planning permission has been lawfully implemented and so an amended time limit condition is included to require a start within three years of the original permission. Original condition No 2 is varied to incorporate the amended plans, in the interests of certainty.

⁷ Peak District National Park Local Development Framework - Core Strategy Development Plan Document, Adopted October 2011.

⁸ Development Management Policies – Part 2 of the Local Plan for the Peak District National Park, Adopted May 2019.

⁹ Conversion of Historic Buildings Supplementary Planning Document March 2022 and Alterations and Extensions Detailed Design Guide Supplementary Planning Document

23. I have re-imposed original conditions 3, 4, 7, 8, 11, 13 and 15. I am satisfied that original conditions 3, 4, 7, 8, 11 and 15 remain necessary to protect the character and appearance of the building itself, its setting and the area. Original condition 13 remains necessary to secure safe and convenient parking and turning provision. These now form conditions 3, 4, 6, 7, 9, 11 and 13 of this decision.
24. The Authority indicate that the plans provided with this appeal adequately show the design detail of the proposed balcony to the south and a condition requiring 1:5 scaled drawings is not necessary. I have no reason to disagree.
25. The Authority has confirmed that several conditions imposed on the original permission that required further details to be agreed, have been subject to an application for the discharge of conditions¹⁰. This related to original conditions 6, 9, 10, 12 and 14. I have had regard to the Authority's decision and original condition 6 is updated to require implementation of the balcony to the north in accordance with plans provided as part of that discharge application (now condition 5). Original condition 9 is omitted as the Authority has confirmed that approved details for ventilation are now shown on the plans secured under condition 2 of this decision.
26. Original conditions 10, 12 and 14 are updated to incorporate details approved under the discharge application, whilst retaining implementation and/or retention elements. These form conditions 8, 10 and 12 of this decision.

Conclusion

27. For the reasons given above, I conclude that the appeal should be allowed and a new planning permission is granted with the original condition No 2 replaced by a new condition that incorporates the amended plans, omitting original conditions 5 and 9, but retaining and where necessary, amending the non-disputed conditions from the previous permission that appear still to be relevant.

S Brook

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before 15 July 2024.
- 2) The development hereby permitted shall not be carried out otherwise than in complete accordance with the amended plan Nos L100-P2, L103-P7, L104-P3, L105-P5, L106-P2, L109-P7, L110-P2 and L118-P6.
- 3) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (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, solar pv panels gates, fences, walls or other means of boundary enclosure shall be erected on the site without the National Park Authority's prior written consent.

¹⁰ NP/DIS/0921/0959

- 4) None of the area in ownership to the north of the building (other than the approved balcony) shall be used as residential curtilage in association with the approved dwelling.
- 5) Notwithstanding the approved plans, the rear balcony shall be fitted in complete accordance with drawing No L120, as approved under planning ref NP/DIS/0921/0959 dated 2 November 2021.
- 6) The rooflights shall be fitted with a central vertical glazing bar at the time of erection and shall be permanently so maintained.
- 7) The metal flue pipes shall be coloured/painted matt black at the time of erection and shall be permanently so maintained.
- 8) The external finish of all timberwork shall be a Clear Sadolin as approved under planning ref NP/DIS/0921/0959 dated 2 November 2021. The timberwork shall be permanently so maintained.
- 9) The rainwater goods shall be cast metal, painted black. The gutters shall be fixed directly to the stonework with brackets and without the use of fascia boards. There shall be no projecting or exposed rafters. These details shall thereafter be permanently so maintained.
- 10) External meter boxes shall be positioned and sized in accordance with drawing L109-P7, the colour finish shall match the adjacent stonework and shall be permanently so maintained.
- 11) The premises shall not be brought into use until the parking spaces shown on the approved plan have been laid out and surfaced in accordance with the approved plans and shall be maintained for the life of the development.
- 12) Before the dwelling is first occupied, the disposal of the waste material from the excavation of the borehole (including the removal of any inappropriately tipped earth) shall be completed in accordance with the restoration scheme in the letter dated 12 October 2021, approved under planning ref NP/DIS/0921/0959 dated 2 November 2021.
- 13) Any electricity lines to the approved dwellinghouse shall be completely below ground.