



Appeal Decision

Site visit made on 7 August 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/P2935/W/24/3343889

Site of the former Haydon Hotel, Shaftoe Street, Haydon Bridge NE47 6JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A 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 Messrs Gary & Philip Cousins against the decision of Northumberland County Council.
 - The application Ref 23/00955/VARYCO, dated 14 March 2023, was refused by notice dated 24 January 2024.
 - The application sought planning permission for construction of two dwellings and detached garage with associated access and parking the Haydon Hotel/Honey Pot Cottage Shaftoe Street Haydon Bridge Hexham Northumberland NE47 6BJ without complying with condition 3 attached to planning permission Ref 20071354, dated 14 August 2009.
 - The condition in dispute is No. 3 which states that: The approved plans for this development are: -
 - Dwg No 05 Rev A (Site Plan as Proposed) Received on 11 December 2008.
 - Dwg No 15 Rev A (Units 1 Elevations) Received on 11 December 2008.
 - Dwg No 10 Rev A (Units 1 Ground Floor Plan including Unit 2 garage) Received on 11 December 2008.
 - Dwg No 11 Rev A (Units 1 First & Second Floor Plans) Received on 11 December 2008.
 - Dwg No 25 Rev A (Units 2 Elevations) Received on 11 December 2008.
 - Dwg No 20 Rev A (Unit 2 Ground Floor Plan) Received on 11 December 2008.
 - Dwg No 21 Rev A (Unit 2 First & Second Floor Plans) Received on 11 December 2008.
 - Dwg No 26 Rev A (Unit 2 Garage Plan & Elevations) Received on 11 December 2008 (small balconies removed from plans 3.3.09).
- The reason given for the condition is: To relate the permission to the correct plans.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Messrs Gary & Philip Cousins against Northumberland County Council. This application is the subject of a separate Decision.

Procedural & Preliminary Matters

3. The Council refused the appellants planning application on the basis that they considered that the application sought to vary a condition on a grant of planning permission that was not considered to have been lawfully implemented. The Council concluded that they were not able to determine and

approve the variation of the condition under Section 73 of the Town and Country Planning Act 1990 (as amended). Much of the evidence supplied alongside this appeal from both of the main parties focuses on issues relating to this matter.

4. I was able to confirm on my site visit that development had commenced. The easternmost property had been built and appeared to be occupied. In the case of *Lawson Builders Ltd v SSCLG*¹, the judgement confirmed a fluidity between sections 73 and 73A. Therefore, regardless of the status of the original planning permission it can be implied from the judgement that it would be possible to grant retrospective permission for development already carried out under S73A.
5. The proposal seeks changes to the previously approved scheme. The attached garage for Unit 1 would be replaced with a car port which would be attached to that already constructed to serve the existing Unit 2 in place of the previously proposed garage. This has entailed and would entail changes to the previously proposed parking and manoeuvring layout.
6. Unit 2 has been turned around to sit on the same orientation and configuration as that of the yet to be constructed Unit 1. The ridgeline of Unit 2 has been altered to run straight through rather than incorporate a set down and the same is proposed for Unit 1.
7. Changes have been incorporated to window styles and velux rooflight designs on the north-west and south-east elevations of Unit 2 and those changes are also proposed for Unit 1.
8. There has been the insertion of 1no. additional first floor window on the south-east elevation of Unit 2 and the same is proposed for Unit 1. A first floor window on the south-west facing elevation of Unit 2 has been removed and the same is proposed for Unit 1. The chimney stack has been omitted from Unit 2 and is proposed to be omitted from Unit 1.
9. There have been further changes at Unit 2 also proposed for Unit 1 which are not mentioned within the appellant's commentary but are shown on the plans.
10. These relate to the decking area above and adjacent to the river. The previously approved plans indicated the use of metal railings to edge the decking, whereas glass panelling is now apparently shown and in place on site. The decking area also protrudes further out from the riverbank wall as shown in the plans and this is reflected on site. The same arrangement is proposed for Unit 1. Solar Panels are included on the south-east facing roof slope of Unit 2 also proposed for Unit 1.
11. Although what has been built so far at the site broadly accords with the plans submitted under the application to which this appeal relates, I was able to observe some differences. These included the apparent provision of glass screening to the balcony at roof level on the northwest elevation of unit 2 and the inclusion of a hipped rather than gabled roof at the southern end of the part constructed car port. For the avoidance of doubt, my determination is made on the basis of the plans submitted with the application which is the subject of this appeal.

¹ *Lawson Builders Ltd v SSCLG* [2015] EWCA Civ 122.

Main Issue

12. Given that I will not further address the Council's reason for refusal, the main issue in this appeal stems from the evidence before me. The appeal site occupies a prominent position on the bank of the River South Tyne, within the Haydon Bridge Conservation Area (the Conservation Area). The main issue is therefore the effect of the proposal on the character and appearance of the Conservation Area.
13. I have not referred back to the appellant on this issue as they have considered this matter both within their heritage statement and their appeal statement of case.

Reasons

14. The significance of the Conservation Area sits with the form, scale, materials and detailing of the buildings in this part of Haydon Bridge which forms the historic core of the Town. Traditional walling and roofing materials including the use of stone and slate dominate the area. Where the use of railings is required on properties on the southern bank of the river, traditional metal railings are generally in use. The river facing side of the appeal site is readily visible in views across the South Tyne from the Old Bridge and at points from the footpath on the opposite bank of the river.
15. The glass panelling has introduced a modern and non-traditional material which sharply contrasts with the materials in wide use in the area. Further, the use of that material and the further protrusion of the decking from the bank affords Unit 2 a floating appearance which unduly increases the prominence of the property above the river. This effect would be repeated at and compounded by being replicated at the as yet unbuilt Unit 1.
16. The traditional appearance of properties within the Conservation Area is further reinforced by the common use of chimney stacks. The omission of such a feature from Unit 2 affords the dwelling an overly modern appearance which is at odds with the existing traditional appearance of the area. The same effect would be replicated at the proposed Unit 1.
17. Subsequently, the scheme has detracted and would detract from the heritage significance of the Conservation Area which sits with the form, scale, materials and detailing of its buildings. The harm would be less than substantial. The scheme has harmed and would harm the character and appearance of the Conservation Area.
18. The proposal is subsequently in conflict with policies ENV 7 and ENV 9 of the Northumberland Local Plan (2022) which amongst other things seek to protect heritage assets and require that within a Conservation Area it will be ensured that development enhances and reinforces the local distinctiveness of the Conservation Area.
19. The Framework² advises at paragraph 202 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. However, any public benefits of the scheme would be very limited

² National Planning Policy Framework 2023.

and would be restricted to potentially improved accommodation to existing and future occupants of the dwellings only.

20. Given the degree of harm I have found that would arise from the appeal scheme which sits within a highly publicly visible location and the statutory protection afforded to Conservation Areas, the public benefits are not and would not be sufficient to outweigh the harm.

Planning Balance and Conclusion

21. There are no material considerations to indicate that the decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

T Burnham

INSPECTOR