
Appeal Decision

Site visit made on 23 December 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 7th January 2025

Appeal Ref: APP/M9496/W/24/3353256

Land adjacent to How Lane, Castleton, S33 8WJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by JA Wilson Building and Groundworks against the decision of Peak District National Park Authority.
 - The application Ref is NP/HPK/0224/0141.
 - The development proposed is a retrospective change of use of existing agricultural land to facilitate a Timber Log Storage Business (B8 Use), internal access track, widened vehicular access to the public highway, and associated landscaping.
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Decision

1. The appeal is allowed and retrospective planning permission is granted for the change of use of existing agricultural land to facilitate a Timber Log Storage Business (B8 Use), internal access track, widened vehicular access to the public highway, and associated landscaping at land adjacent to How Lane, Castleton, S33 8WJ in accordance with the terms of the application, Ref NP/HPK/0224/0141, subject to the conditions in the attached schedule.

Main Issues

2. Core Strategy¹ (CS) Policy E1 and Development Management Policies² (DMP) Policy DS1 both support small-scale business proposals on the edge of named settlements such as Castleton. There is no suggestion in the Reasons for Refusal or the Officer's Report that the principle of development is unacceptable and in light of the above policies, I see no reason to take a contrary view.
3. The main issues are therefore the effect of the proposed development on, firstly, the character and appearance of the area, and, secondly, the living conditions of neighbouring occupiers with particular regard to noise.

Reasons

Character and appearance

4. Paragraph 189 of the National Planning Policy Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation landscape matters.

¹ Full title: Peak District National Park Local Development Framework – Core Strategy Development Plan Document 2011

² Full title: Development Management Policies Part 2 of the Local Plan for the Peak District National Park 2019

5. The appeal site relates to a rectangular parcel of land extending west to east and set back approximately 65m from the southern edge of How Lane. It is accessed via a historical farm track that has been widened to facilitate vehicular movements to/from the site. From the written submissions, it appears the timber storage business has been operating since 2020.
6. While the site is on the edge of Castleton, it is not an infill plot as suggested by the Appellant. Nor would I subscribe to the Authority's view that it is poorly related to Castleton. Nonetheless, the development does encroach into the open countryside setting to the east of Castleton.
7. As I saw when I visited the site, the timber storage is fairly low level and blends in well with the landscape to the south. The wire cages are perhaps more incongruous in terms of their materiality, but their visual impact is softened by their height and transparency. The site is undoubtedly visible in views from How Lane and the public footpath that runs alongside Peakshole Water. However, given the generous set-back from these highways, it does not draw the eye in any meaningful way. Effectively one has to know where to look and to that end, I would not go far as to describe the development as 'prominent'.
8. The Authority has not drawn my attention to any longer distance views that might be adversely affected. When I visited the site, I travelled along Pindale Road which occupies an elevated position to the south of the appeal site. Given the lack of foliage at this time of year, I was just able to see the blue storage container at the eastern end of the site with the naked eye. However, the view was heavily filtered by the presence of stone walls, a stable block and a number of mature trees close to the southern site boundary. I consider the site would be entirely screened from Pindale Road by foliage in the summer months.
9. Given the recessed nature of the appeal site, the modest scale of operations and the lack of visibility in longer distance views, I consider the degree of landscape and visual harm to be moderate rather than significant. Nonetheless there is conflict with CS Policies GSP1, GSP3, L1 and DMP Policy DMC3 insofar as they seek to conserve and enhance the National Park's valued characteristics and landscape. However, given the principle of development accords with Policies E1 and DS1, the matter does not end there.
10. DMP Policy DME8 states that where development for employment purposes is acceptable in principle (as is the case here), it will only be permitted where every practicable means is used to minimise any adverse effects on the valued characteristics and amenity of the area. Among other things the policy refers to *"landscaping and other screening, and whether, in the landscape proposed, it is an appropriate method to mitigate adverse impact on the landscape"*. It is clear from the above that there is an expectation within the Development Plan that landscaping can be an acceptable way of 'mitigating' or 'minimising' adverse landscape effects. The determinative issue in this case is therefore whether the harm identified, can be mitigated or minimised by a landscaping scheme which could be secured by planning condition.
11. The Appellant accepts that the current landscaping is unsuitable and sought to agree an alternative scheme with the Authority during the determination period. For reasons that are not entirely clear it appears those discussions did not take place. While reference is made in the Officer's Report to the leylandii landscaping

scheme, it appears no consideration of whether an alternative scheme could be secured by condition. The matter is however addressed in the Authority's Appeal Statement which states:

Whilst it is recognised some improvement could be made to the landscaping of the site, officers unfortunately did not consider this would overcome the harm arising from the development by virtue of its siting and the design and nature of development itself (open storage). Dense landscaping to screen the open storage would be at odds with the landscape character (page 10 of the Delegated Report) and in any case would be unlikely to screen the development during the winter months.

12. The Authority's position therefore appears to be that no landscaping scheme whatever its final form could overcome the identified harm. I must say I find that to be surprising given the use is acknowledged to be small-scale. Such comments might well be justified in the context of a large-scale industrial use such as the nearby cement works, but that is clearly different to the development in this case.
13. Putting that to one side, the words "*overcome the harm*" would, on their face, appear to go significantly beyond the policy test in Policy DME8 which refers to '*mitigation*' and '*minimisation*' rather than the elimination of adverse visual effects. The wording of Policy DME8 is in my view quite deliberate since it would be unreasonable and unrealistic to expect all small-scale employment schemes in the national park to deliver a nil-detriment outcome in landscape terms. As is made clear in the supporting text, the policy is thus seeking to strike an appropriate balance between the need for and benefits of employment uses in the national park against the harm they might cause to sensitive landscapes.
14. The correct approach under Policy DME8 is therefore to consider whether a sensitively designed landscaping scheme could minimise or mitigate adverse landscape impacts to an acceptable degree. This is ultimately a matter of planning judgement. In undertaking that assessment, I am mindful of the existing baseline described above, notably that the development is relatively modest in its extent, recessed generously from public vantages and with limited visual exposure over the wider area. While the widening of the access and track has added some additional landscape harm, the effects are relatively minor, and the access still retains the appearance of a traditional farm access.
15. Bringing all these considerations together, I consider that it would be possible to design a landscaping scheme for the site in conjunction with restrictions regarding the extent of storage operations, that minimises the long-term adverse landscape impacts to an acceptable degree. Therefore, subject to the conditions set out below, I am satisfied that "*every practical means*" has been taken to minimise the identified landscape harm in accordance with DMP Policy DME8.

Living conditions

16. The Authority's third reason for refusal alleges that insufficient information has been submitted to establish whether noise from the development would unacceptably harm the living conditions of neighbouring occupiers. While the Authority may have legitimate concerns in respect of noise, within the overall legal framework of section 38(6) of the Town and Country Planning Act 1990, it is as much for the Authority to make out its case as to why planning permission should be refused as for the Appellant to make out a case that it should be granted.

Therefore, if the Authority was “unclear” about the noise implications of the development, it has had ample opportunity to collect evidence in this regard and to present a positive case at appeal.

17. As it transpires, no evidence has been submitted by the Authority, Parish Council or neighbouring occupiers in relation to noise despite the use dating back to 2020³. The Appellant has clarified that the amount of activity at the site is “very *limited*” and comprises deliveries and the movement of materials around the site by forklift. No activities take place on site at unsociable hours including evenings, weekends and bank holidays.
18. While I accept that the use inevitably generates noise from time to time, that is the case with most small-scale employment uses. It is also pertinent that an agricultural use has the potential to generate occasional noise although I accept that would probably be less than the current use. Nonetheless, I am satisfied that the living conditions of neighbouring occupiers can be adequately safeguarded through the imposition of various noise conditions set out below. Among other things these would prevent the use of the site on weekends and bank holidays which appears to be a particular grievance at present. Accordingly, there would be no conflict with Core Strategy Policy GSP3 or DMP Policies DMC3, DMC13, DMC14 and DME8 insofar as they seek to protect the amenity and living conditions of neighbouring residents.

Conditions

19. The Authority has suggested a number of planning conditions without accompanying reasons which I have considered against the advice in the Planning Practice Guidance (PPG). In some instances, I have amended the conditions in the interests of brevity, to avoid repetition or to ensure compliance with the PPG.
20. I have imposed a condition specifying the approved plans to provide certainty. Details pertaining to a landscaping scheme, boundary treatments and the height of timber storage is necessary to ensure the development is appropriately screened to ensure compliance with Policy DME8. Subject to repainting in a more neutral colour, I do not consider it necessary for the storage containers to be removed. The removal of certain permitted development rights is necessary to ensure the development does not give rise to additional landscape effects which have not been assessed. Conditions relating to noise attenuation, working hours and lighting are all necessary to safeguard the living conditions of neighbouring occupiers.

Conclusion

21. For the reasons given above the appeal should be allowed.

D. M. Young

INSPECTOR

³ The occupier of Stafford Close refers to video evidence having been submitted to the Authority. However, this has not been made available to the Inspectorate.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with location plan A3/PM3D 0000 and layout plan and elevations A2/PM3D 1102.
- 2) Within 6 months from the date of this decision, a landscaping scheme for the development shall be submitted to the Authority for approval in writing. The approved landscaping scheme shall then be carried out in the next available planting and seeding season. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species or in accordance with an alternative scheme previously agreed in writing by the National Park Authority.
- 3) Within 6 months from the date of this decision, a drystone wall constructed of natural limestone shall be constructed along the north and east boundaries of the yard area in accordance with details that shall first have been submitted to and agreed in writing by the Authority. The walls shall thereafter be maintained for the lifetime of the development.
- 4) Notwithstanding the details shown on the approved plans, the height of the stacked gabion baskets, or any alternative means of storage container, shall not exceed the height of the shipping container or portacabin.
- 5) Within 3 months from the date of this decision, a detailed scheme of noise attenuation and management measures to be incorporated into the development, including a timescale for implementation, shall be submitted to and approved in writing by the Authority. The scheme shall be based on the findings of an approved noise survey of the application site. The development shall thereafter operate in complete accordance with the approved details.
- 6) The hours of operation including deliveries, loading, unloading or other servicing activities shall be restricted to 08:00 - 17:00 hours Monday - Friday; and at no times on weekends or Bank Holidays.
- 7) There shall be no external lighting installed on site unless in accordance with a scheme which shall have first been submitted to and approved in writing by the National Park Authority.
- 8) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 the use of the development hereby approved shall be restricted to open storage (Use Class B8) only and for no other purpose.
- 9) Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any order revoking or re-enacting that Order) no erection, extension, alteration of a building or hard surfacing shall be carried out on the site without the National Park Authority's prior written consent.