



Appeal Decision

Site visit made on 16 January 2025

by **H Jones BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 February 2025

Appeal Ref: APP/P2935/W/24/3351177

Camphill Farm Steading, Camphill, Berwick-upon-Tweed, Northumberland TD15 1UU

- 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 carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Michael Guthrie (Michael Guthrie Developments Ltd) against the decision of Northumberland County Council.
- The application Ref 23/00305/VARYCO, dated 25 January 2023, was refused by notice dated 6 June 2024.
- The application sought planning permission for the proposed demolition and removal of existing structures on site & proposed construction of semi-submerged underground house without complying with conditions attached to planning permission Ref 15/02293/FUL, dated 18 September 2015.
- The conditions in dispute are Nos 2 and 3 which state that:
 - (2) *The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans. The approved plans for this development are:-*
 - 1. Drawing number MGD/878/15, A104, Elevation;
 - 2. Drawing number MGD/878/15, A103, Layout Plan;
 - 3. Drawing number MGD/878/15, A102, Site Layout;
 - 4. Drawing number MGD/878/15, A105, Roof Layout;
 - (3) *The facing materials and finishes to be used in the construction of the development shall be in accordance with details contained in the application. The development shall not be constructed other than with these approved materials.*
- The reasons given for the conditions are:
 - (2) *To ensure that the approved development is carried out in complete accordance with the approved plans.*
 - (3) *In the interests of the satisfactory appearance of the development upon completion and in accordance with the provisions of local plan policy F3.*

Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. Planning permission for a new dwelling and other works at the site was granted in September 2015. Development, including the construction of a dwelling, has taken place since, however, it differs in some regards from that depicted on the approved plans. The appeal seeks permission for the development without complying with conditions 2 and 3 of the 2015 permission which require the development to comply with the approved plans and which govern the development's materials and finishes.
3. In broad terms, permission was sought under application reference 23/00305/VARYCO for alterations to the approved development which entail revisions to the dwelling's roof lights, the omission of a glazed pitched roof element

over a swimming pool, the provision of 2 rather than 3 garage doors and the introduction of an oil tank. The Council refused the application, and its reason for refusal concerned only the effects of the roof lights. My main issue, which is set out elsewhere in my decision, reflects this.

4. There is some disagreement between the appellant and the Council regarding which plans the Council based its decision on when it determined application 23/00305/VARYCO. It is clear that the appellant submitted to the Council some different iterations of the layout and roof plan. Firstly, plan B106 dated 31 January 2024 was submitted and, later, plan B106 dated 5 February 2024 (the February 2024 plan). As the last of the layout and roof plans submitted to the Council, the appellant understands that the Council based its decision upon the February 2024 plan. In contrast, the Council has set out that it based its decision upon the layout and roof plan B106 dated 10 March 2023 (the March 2023 plan) and, in essence, that the design iterations submitted thereafter were not treated on a formal basis as amended plans.
5. The assessment within the Council's delegated report dated June 2024 reflects the Council's position since assessment within it clearly relates to the roof lights as depicted on the March 2023 plan. There is no substantive evidence before me that the Council carried out any public consultation on the February 2024 plan, and the content of the public representations made during the determination of the planning application was based on the roof light layout depicted on the March 2023 plan which matches that on the site. These factors indicate to me that the Council did base its decision upon the March 2023 plan.
6. I have had regard to whether it would be appropriate for me to accept the February 2024 plan as though it was a revised plan submitted as a part of the appeal. However, the changes to the design of the roof lights would be substantial. Moreover, I find it would be procedurally unfair to the likes of neighbouring residents, since their views and comments have not been made upon that rendition of the development.
7. Given all of these factors, in my determination, I focus my assessment upon the effects which would be wrought by the roof light layout and design shown on the March 2023 plan. However, given the unusual circumstances, I nevertheless pass some comment upon the acceptability of the February 2024 plan roof light layout and design later in my decision.
8. During my visit I noted that elements of development on site do not match the plans before me. Notably, I observed differences in the dwelling's fenestration and layout around the vestibule area of the dwelling and that the shape of the wall to the surrounds of the parking apron also deviates from the plans. For the avoidance of doubt, I have determined the appeal on the basis of the plans submitted.
9. On 12 December 2024, a revised version of the National Planning Policy Framework (the Framework) was published. In making my decision, I have had regard to the revised Framework insofar as it is relevant to the appeal.

Main Issue

10. The main issue is the effect that varying the conditions would have upon the character and appearance of the host dwelling and the area with specific regard to the effects that would be brought about by the roof light layout and design.

Reasons

11. The site is located on elevated land to the north-west of Berwick. The dwelling within the site forms a part of a small building group surrounded by fields.
12. Owing to facets such as landscaped bunds, which would provide for a partly submerged appearance, the incorporation of a largely green roof, a low-slung nature and a curvature to the shape of some external walls, the design of the dwelling approved in 2015 is distinctive. Furthermore, as the roof of the approved dwelling was to include only 4 low profile roof domes, and a glazed pitched roof element, its roofscape would be dominated by the green roof's plantings as depicted by the approved plans and elevations. The result would be a roofscape with an inconspicuous appearance which would significantly contribute to assimilating the dwelling into its predominantly rural surroundings.
13. In contrast, the revisions to the approved roofscape, shown on the plans and implemented on site, involve a total of 25 roof lights. This represents a very substantial increase in the number of roof lights to serve the dwelling. Rather than being of a low profile and dome shaped, the roof lights are also of a lantern-type design, and they reach a total height of 500mm. Consequently, they are bulky features, and they markedly protrude above the rest of the roof including the green roof plantings to their surrounds. Instead of being inconspicuous, the roofscape is now unduly complex, and it is harmfully discordant with those facets of the rest of the dwelling which are more unobtrusive and which contributed to its originally distinctive design.
14. As a result, the revisions to the roof light design and layout have brought about harm to the character and appearance of the host dwelling and the area. In coming to these views, I have had regard to the landscaping which has been planted and that over time this will mature further. I have also had regard to the proposal to apply an anti-glare film to the roof lights. However, the landscaping would not wholly screen the roofscape whilst the proposed film would only potentially reduce glare, it would not alter the conspicuous appearance of the roof lights or provide mitigation for the additional visual complexity which they have resulted in. Furthermore, regardless of the extent to which landscaping could filter or screen views of the roof, the amended roofscape is unbecoming to the host dwelling and it amounts to poor design.
15. For the reasons I have given, the effects of varying the conditions upon the character and appearance of the host dwelling and the area would be harmful specifically because of the effects brought about by the roof light layout and design. Conflict with Policy QOP 1 of the Northumberland Local Plan 2016-2036 (LP) therefore arises which, in summary and amongst other matters, requires development to be visually attractive, to incorporate high quality detailing and to make a positive contribution to local character and distinctiveness.
16. My findings above relate to the roof light layout and design depicted, alongside other plans, by the March 2023 plan. Even if I were to have concluded that the Council had based its decision upon the February 2024 plan design my conclusions upon this main issue would still be that harmful effects would arise in conflict with Policy QOP 1. In that alternative scheme, 10 of the roof lights would have a flat profile, and a total of 15 would remain of the lantern-type. With more of the roof lights having a less prominent appearance, less harm would result.

Nevertheless, with 15 lantern roof lights incorporated, undue roofscape complexity would still result to the detriment of the character and appearance of the host dwelling and the area.

17. Finally, the Council refer to the site being located within an area of high landscape value. However, I have very limited evidence before me regarding this area's extent or the particular value or qualities which it exhibits. Furthermore, the harmful effects which I have described have been wrought by the roof light design and layout are localised, experienced in the more immediate surrounds of the site. For these reasons, although I have concluded that the character and appearance of the host dwelling and the area has been harmed, I do not conclude that, more widely, the landscape character of the area of high landscape value has been adversely affected. In turn, I find no conflict with LP Policy ENV 3 which, amongst other matters, seeks to conserve and enhance landscape character.

Other Matters

18. The appellant has referred to the permitted development rights afforded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, in order to constitute permitted development, any roof light protrusion from the roof would be limited to 150mm. The roof lights would be far less bulky than those the subject of the appeal, and their effects would not be comparable with those before me for my determination with far less harm resulting. The exercise of permitted development rights does not, therefore, provide a fallback position in favour of the appeal scheme of any meaningful weight.
19. The appellant draws issue with the manner in which the Council handled the planning application. However, this does not have a bearing on the merits of the case and, therefore, is not a determinative factor in my decision.
20. Representations received in response to the Council's planning application consultation exercises, and in relation to the appeal, raise a number of other matters. This includes, but is not limited to, the effects of glare from the roof lights upon their living conditions. Evidence submitted from both the appellant and the Council provide commentary upon the matters raised. However, as I am dismissing the appeal because of my findings on the main issue it is not necessary for me to address these matters in any detail or conclude upon them.

Conclusion

21. The development conflicts with the development plan taken as a whole. There are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR