



Appeal Decision

Site visit made on 19 September 2025

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th November 2025

Appeal Ref: APP/C9499/W/25/3369302

1 and 2 Honey Pot Cottages, Joss Lane, Sedbergh LA10 5AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Miss Sarah Singleton against Yorkshire Dales National Park Authority.
 - The application Ref is S/03/653A.
 - The development proposed is described as 'The planning permission granted for S/03/653 does not include an external garden area. I would like to include the area as defined in this application not only to afford external space to the premises but also because this area could not be used for agricultural use given its location to the property and the road/path between the land and the remainder of the agricultural land. At the moment members of the public are able to access the area from the public footpath and this gives issues of security and privacy that I would like to mitigate'.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matter

2. The Council has made reference to the emerging Local Plan, which has not been examined and is subject to change. Therefore, I have determined this appeal with reference to the adopted development plan.

Main Issues

3. The Council did not determine the application. However, from all I have read and seen, I consider the main issues to be:
 - The effect of the proposed development on the character and appearance of the area with particular regard to the site's location within the Yorkshire Dales National Park and including any effect on the significance of non-designated heritage assets; and
 - Whether the proposed development would meet the statutory requirements for the provision of biodiversity net gain.

Reasons

Character and appearance

4. The appeal site is an area of grassland adjacent to 1 and 2 Honey Pot Cottages, a pair of dwellings which were once a barn, located within a small cluster of buildings at the end of Joss Lane.

5. The appeal site comprises a small irregular shaped strip of land located between Nos 1 and 2 with a public footpath that runs past the site. The area is very open in character with dry stone walls dividing small fields. The land rises up along the public footpath quite steeply away from the properties.
6. The application proposes the change of use of the land which is in agricultural use to an enclosed garden space, with the addition of drystone walls to create separation between the public and private realm, and to provide privacy. The proposal also includes an area of planting, with several trees to the north of the site, which would be contained by post and wire fencing. Nos 1 and 2 appear to use the appeal site, however it is very open due to the absence of separation between the grassed area and the footpath adjacent to it and the open fields on its opposite side. Due to the shape and size of the appeal site, it would be difficult to farm the land, however, due to the absence of boundary treatments it is likely that animals could graze on the appeal site.
7. The appeal site is within the Yorkshire Dales National Park therefore, I have a duty¹ to seek to further the statutory purposes of a National Park. This means² that, amongst other factors, as far as is reasonably practical, relevant authorities should seek to avoid harm, and contribute to the conservation and enhancement of the natural beauty, special qualities and key characteristics of Protected Landscapes.
8. The National Planning Policy Framework (the Framework) describes National Parks as having the highest status of protection in relation to landscape and scenic beauty, to the conservation and enhancement of which great weight should be given. The conservation and enhancement of wildlife and cultural heritage, it says, are also important considerations in these areas, and should be given great weight too.
9. Whilst the former barn has been converted to living accommodation, those units do retain historic features and a strong agrarian character. Furthermore, they form part of a historical cluster of dwellings, which based on the Council's statement of case were originally connected with agriculture which is important to the National Park, and is described in the Yorkshire Dales National Park Design Guide as a working landscape, shaped and sustained by farming.
10. The design of the proposed garden area utilises a modest strip of land, which extends to the walls of Nos 1 and 2. Whilst it is clear when viewing the properties that they are in domestic use, due to their domestic openings and some domestic paraphernalia, they nevertheless retain a strong agrarian character due to their position within the wider cluster of buildings, their simple design and material palette. Notwithstanding the small scale of the proposal, the introduction of the walls to create the enclosure would further domesticate the properties, and even with the removal of permitted development rights for garden buildings, domestic paraphernalia that does not require the benefit of planning permission would likely accumulate. Therefore, the creation of the garden, together with boundary treatments would change the character of the landscape through the change of use of the space to a domestic space. This would erode the agrarian character of the buildings and the immediate landscape in which the appeal site is located and which is characteristic of the National Park.

¹ The Levelling-up and Regeneration Act 2023; s245

² Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes, December 2024

11. Being adjacent to the public footpath, the proposed change of use would be prominent from public vantage points; its harmful effect on the character of the area would be particularly conspicuous.
12. The proposal is located near to non-designated heritage assets and in accordance with paragraph 216 of the Framework their significance should be taken into account. 'The Old House at the Hill' which is said to date from the C16 is located near to the site. I am satisfied that due to the position of the appeal site in relation to 'The Old House at the Hill' with Nos 1 and 2 sitting between the two sites, the proposed enclosed garden area would not affect the significance of this non-designated heritage asset to a degree whereby it would cause harm.
13. The appeal scheme as a proposed garden to Nos 1 and 2 would directly affect the significance of the building as a non-designated heritage asset, and particularly its character as a simple barn building within an agricultural and scenic landscape such as this. I consider that the barn and its simple form and detailing makes a contribution to the cultural heritage of the landscape. Therefore, the domestication of the land adjoining Nos 1 and 2 would detract from the significance of the non-designated heritage asset by eroding what remains of its agrarian character.
14. I consider that the proposed materials including the dry-stone walls would be appropriate in this area which are abundant within the National Park. Nevertheless, the proposed change of use and the introduction of further domestic features such as a garden enclosure would harm the character of the building and fail to conserve or enhance the landscape and scenic beauty of the National Park.
15. In conclusion on this main issue, and for the above reasons, the proposed development would cause harm to the character and appearance of the area, with particular regard to the Yorkshire Dales National Park and including the non-designated heritage asset (Nos 1 and 2). The proposal would therefore, fail to accord with Policies SP1, SP2 and SP4 of the Yorkshire Dales National Park Local Plan (LP) which in combination seek to ensure that development conserves or enhances the landscape character and historic character of the National Park and seeks design that reinforces local distinctiveness. The proposal would also fail to accord with Policy L1 of the LP which requires conservation of the significance of undesignated heritage assets.
16. In addition, for the reasons set out above, the proposal would not accord with Paragraph 189 of the Framework as it would fail to conserve and enhance the landscape, scenic beauty and cultural heritage of the Yorkshire Dales National Park, which is given the highest status of protection, to which it indicates that great weight should be given. More significantly, it would conflict with the duty to seek to further the statutory purpose of conserving and enhancing the natural beauty of a National Park.

Biodiversity net gain

17. Biodiversity Net Gain (BNG) is a mandatory requirement of Schedule 7A of the Town and Country Planning Act 1990 as inserted by Schedule 14 of the Environment Act 2021. The Biodiversity Gain Requirements (Exemptions) Regulations 2024 exempt certain developments from meeting the biodiversity requirement that would otherwise be imposed as a deemed condition of planning permission.

18. In this case the appellant in the planning application forms stated that the development would be subject to the de minimis exemption, however the detail within the forms stated that the exemption applied for was under (a) an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, or (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development.
19. The Council did not consider that the proposal fell within these exemptions. Additional information was submitted by the appellant to satisfy validation requirements. Notwithstanding this, and based on the evidence before me I agree with the Council's conclusion regarding exemptions.
20. The appellant's evidence demonstrates that the proposal would provide the minimum requirement of 10% BNG, through the proposed tree planting and an area of modified grassland which would contribute towards biodiversity. However, in order to achieve the statutory requirement, the proposed private garden would be required together with land outside of the red line boundary. The information contained within the DEFRA guidance³ states that a post-development private garden has no public access, and biodiversity net gains cannot be legally secured.
21. However, if approved, developments liable for statutory BNG are subject to a deemed biodiversity gain condition. Such development cannot commence until a biodiversity gain plan (BGP) has been submitted to and approved by the local planning authority. The PPG⁴ makes clear that it would generally be inappropriate for decision makers, when determining a planning application for a development subject to BNG, to refuse an application on the grounds that the biodiversity gain objective will not be met and that decision makers may need to consider more broadly whether the biodiversity gain condition is capable of successfully being discharged.
22. In this case whilst the on-site gains as shown in the evidence before me may not be able to be secured for the aforementioned reasons, this does not mean that the biodiversity gain condition could not be successfully discharged in other ways, such as by way of off-site gains given the amount of land within the blue line, or through biodiversity credits.
23. Consequently, I conclude that the proposed development could meet the statutory requirements for the provision of BNG through the requirements of the BGP required to discharge a deemed biodiversity gain condition.
24. The Council has referred in its recommended reason for refusal to Policy W2 of the currently adopted LP. The policy requires new development that would have an impact on biodiversity to make a proportionate on-site contribution to wildlife enhancement. The proposed tree planting within the site would constitute a biodiversity enhancement over the existing and given the design and scale of the scheme, I consider that the proposal would not conflict with the policy in this regard.

³ DEFRA The Small Sites Metric (Statutory Biodiversity Metric) User Guide last updated 3 July 2025.

⁴ Paragraph: 019 Reference ID: 74-019-20240214

25. Within the statement of case the Council refers to Policy W1 of the LP. The Council's wildlife conservation officer has raised no objection in relation to this policy which seeks to protect the most important habitats and species found in the National Park, halt the overall decline in biodiversity and establish more resilient ecological networks. Therefore, based on the information before me I consider that the proposal would not conflict with this policy.

Other Matters

26. The appellant has expressed dissatisfaction with the Council's handling of the application, particularly regarding the failure to make a decision within the statutory timeframe and regarding engagement with the appellant. However, this is a matter between those parties, and it cannot have any bearing on my determination of this appeal.
27. The appellant's statement of case refers to Policy CC1 of the LP, which refers to small scale renewable energy schemes. The scheme does introduce tree planting which promotes surface water drainage and carbon absorption, however I do not consider this policy to be directly relevant to this case as it does not relate to renewable or low carbon technology. Nevertheless, those benefits do attract modest weight, however do not outweigh the harm identified to the character and appearance of the area.
28. The proposed development would provide a physical separation from the public footpath and the appeal site which would provide a sense of privacy and security for occupants. However, due to the existing area to the front of the properties together with the use of the properties as holiday cottages, this matter carries modest weight and therefore does not outweigh the harm identified to the character and appearance of the area.
29. I am satisfied based on my observations and on the evidence before me that the proposal would not have an adverse effect on the living conditions of neighbouring occupiers or on highway safety. However, compliance with regard to these matters does not affect my conclusion in this case.

Conclusion

30. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal is dismissed.

N Duff

INSPECTOR