

8. FULL APPLICATION – VARIATION OF CONDITIONS OF NP/HPK/0517/0525 (CONVERSION OF BARN TO HOLIDAY LET PROPERTY) TO REMOVE HOLIDAY LET OCCUPANCY CONDITION AND TO VARY CONDITIONS ADDRESSING ECOLOGICAL MITIGATION MEASURES AT BEAN HILL FARM, CASTLETON (NP/HPK/0517/0525, P.3462, 4357 & 6407, 415057 / 382802, 22/05/2017/MN)

APPLICANT: Mr and Mrs Hodkinson

Site and Surroundings

Bean Hill Farm fronts onto the eastern side of Castleton Market Place, towards the southern end of the village. The property comprises a range of traditional buildings which are Grade II listed.

There are three principal buildings, the two storey Bean Hill farmhouse, and two adjoining barns known as Middle Barn and Northern Barn; both barns front the marketplace. Cobb Cottage abuts the southern end of the barns and is in separate ownership.

The planning unit comprises the farmhouse, Middle Barn and Northern Barn, parking and access to Bean Hill Farm from the Market Square and agricultural land within the same ownership to the east. All buildings and land are within the Conservation Area.

The barns are constructed of coursed limestone rubble under a Welsh slate roof with gritstone dressings and each has a large cart opening in the front elevation. The barns are currently unused, although restoration and repair of the buildings has been commenced in accordance with NP/HPK/0113/0071 (detailed below). There is a single storey lean-to on the rear of the north barn. The site is surrounded by residential properties.

Vehicular access to the site is via an access from the Market Place between Cobb Cottage and the property to the south. The access serves the farmhouse, the rear of Cobb Cottage, the middle and north barn and the fields to the East which are in agricultural use. There is a parking area sufficient to provide at least 7 parking spaces, including two places for Cobb Cottage.

Proposal

To remove condition 3 of NP/HPK/0113/0071, which restricted the occupancy of the dwelling approved within the barn to short term holiday letting. This would have the effect of allowing occupation of the building as an independent open market dwelling.

To vary conditions 18 and 19 of the same permission: Condition 18 required a stone outbuilding some 60m east of the barns to be re-built as a 'bat barn' prior to the approved holiday accommodation being brought into use. Condition 19 controlled lighting around the bat barn.

It is proposed to replace these conditions with a single condition requiring the provision of bat boxes in accordance with a method statement that would be submitted to and agreed in writing by the Authority.

RECOMMENDATION:

That the Authority refuses to vary or remove Condition 3 (holiday let occupancy restriction) and re-imposes all other outstanding conditions from NP/HPK/0113/0071, but agrees to replace conditions 18 and 19 with a revised condition securing a reduced scheme of ecological mitigation.

Key Issues

- Whether the principle of removing condition 3 of NP/HPK/0113/0071 to permit an open market dwelling is acceptable in principle.
- Whether the proposed alternative bat mitigation measures would conserve and enhance the bat interests of the site.

History

2008: NP/HPK/1208/1044 and NP/HPK/1208/1045: Full planning permission and listed building consent granted for repairs and alterations to provide education space and staff accommodation at Bean Hill Farm (NB. This was permission for the YHA, but was never implemented).

2013: NP/HPK/0113/0071 and NP/HPK/0113/0073: Planning permission and listed building consent granted for change of use of barn to single residential self-catering holiday let, including internal alterations, alterations to window and door openings, re-covering of roof and installation of conservation type roof windows. Also, demolition and re-building of field barn.

Consultations

Derbyshire County Council – Highways – No objections subject to applicant maintaining off street parking spaces.

Castleton Parish Council – No objections.

Natural England – No comment.

High Peak Borough Council – No response at time of writing.

PDNPA – Archaeology - The proposed removal of condition 18 of the current planning permission will secure the survival a non-designated heritage asset (the field barn) within a Conservation Area. We would strongly support this proposal.

PDNPA – Ecology – The response is duplicated here in full, as it contains numerous references to specific legislation and guidance:

“The Bat Mitigation Guidelines provide guidelines for proportionate mitigation (Mitchell-Jones, 2004). Small numbers of roosting, non-breeding common species fall between low and medium conservation significance (page 39 of the guidance). Mitigation/compensation for low numbers of non-breeding common species falls between *“flexibility over provision of bat boxes, access to new buildings etc.”* and *“Provision of new roost facilities where possible. Need not be exactly like-for like, but should be suitable, based on species’ requirements”*. Page 44 and 45 of the guidance provides details on habitat preference for brown long-eared bats (BLE) for both Summer and maternity roosts. This then goes on to say *“For species that fly in roof voids...it is essential that a sufficiently large space, unobstructed by constructional timbers, is available for the bats to fly in. Based on a sample of known roosts, it is unlikely that a void height (floor to ridge board) of less than 2m will provide sufficient volume or that an apex length or width of less than 4m will provide sufficient area”*. These minimum dimensions should be provided in order to secure provision for BLE, based upon habitat preference. It is unlikely that bat boxes alone will provide roosting provision for this species, other than a temporary roost during the transient period between summer and winter roosting.

Some key points:

1. All competent authorities (including planning authorities), when exercising their functions must have regard to the requirements of the Habitats Directive (Regulation 9(3) of the Habitats Regulations). This duty requires us to consider the ‘three tests’. This is done independently of NE and therefore there may be some disagreement and I can’t see why that is not perfectly acceptable. There is no direct conflict with NE advice in this instance, it is simply a case that we consider that more compensation needs to be offered for the LPA to fulfil our duty and ensure that the favourable conservation status of the species’ is met. In this case, we considered that in order to meet the ‘favourable conservation status’ test the field barn was required to provide compensation for brown long-eared bat, as well as social behaviour observed in the existing building for a number of species (four including BLE). Natural England only have the Habitats Regulations to consider whilst we have the NERC Act, NPPF and Circular 06/2005 etc.
2. The NPPF in paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by: ‘minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures’.
3. When determining an application for development that is covered by standing advice (from Natural England), in accordance with guidance in Government Circular 06/2005, LPAs must take into account Natural England standing advice.
4. An extract from the Standing Advice on bats states that *“Compensation should ensure that once completed, there is no net loss of roosting sites. In fact where significant impacts are predicted there will be an expectation that compensation will provide an enhanced habitat (in terms of quality or area) compared with that to be lost.... The size of the scheme will largely determine whether wider biodiversity enhancements are appropriate, but any habitat management work which provides greater bat roosting opportunities, retains and improves habitat connectivity/flight paths/commuting routes and retains and improves the habitat for invertebrates (i.e. improves feeding opportunities for bats) is highly recommended.”*
5. Under FAQ section of the Natural England Standing Advice there is a question about responsibilities of local authorities; one excerpt reads “Natural England recommends that Planning Authorities maximise the opportunities for enhancements associated with all developments”.
6. Section 40 of the Natural Environment and Rural Communities Act (2006) states that: : *“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”*. Section 40(3) also states that *“conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat”*. Brown long-eared bat and soprano pipistrelle bat are both “Species of Principal Importance” under the provisions of the NERC Act 2006. The National Planning Policy Framework (NPPF) (paragraph 117) indicates that local authorities should take measures to *“promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species”* (i.e. Species of Principal Importance).

The method statement for the 2010 licence says at this site (the EPS licence that was submitted for the YHA permission) *“In accordance with the Bat Mitigation Guidelines, non-breeding roosts of small numbers of common species are considered to be of low conservation significance. However, the site collectively supports at least four species of bat and is therefore considered to be of low-medium conservation significance.”* In accordance with Bat Mitigation Guidelines (P39) this requires *“Provision of new roost facilities where possible. [these] need not be like for like, but should be suitable, based on species requirements...”* Bat boxes are not suitable based on the

species requirements in this case as not only are we dealing with brown long-eared bats, but they are using the roost for light sampling, feeding and socialising and bat boxes will not suit these purposes.

The Key principles of mitigation set out in the Bat Mitigation Guidelines (Section 7.2) state that the overall aim is “to ensure that there will be no detriment to the conservation status of bats. In practice this means maintaining and preferably enhancing populations affected by development” The same section then goes on to say that “plans should aim to replace like with like” and that “compensation should aim to ensure the affected bat population can function as before”. The compensation offered in the licence granted by NE does not appear to allow for this.

I feel we have good grounds, given the above, to refuse the application, or ensure that sufficient provision for BLE is made in some form (e.g. a bat loft of sufficient dimensions in the converted barn, although this would also need to be agreed with conservation officers”).

Representations

The Authority has received a total of 17 representations. All support the proposal on the following grounds:

- The use of the building as a permanent dwelling will improve the vitality and sustainability of the village, the community, and its amenities.
- The use represents an appropriate use for a building of this character and appearance.
- The area already has too many holiday homes

Main Policies

Relevant Core Strategy policies: GSP1, GSP3, DS1, L3 and HC1

Relevant Local Plan policies: LC4, LC5, LC8 LC17, LC18, LC19, LT11, LT18

National Planning Policy Framework

The National Planning Policy Framework (The Framework) is a material consideration which carries particular weight where a development plan is absent, silent or relevant policies are out of date.

Paragraph 115 of the Framework says that great weight should be given to conserving landscape and scenic beauty in National Parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight. Paragraph 115 refers to the National Parks and the Broads Circular which states that Government Policy is that the National Park should encourage affordable housing to meet local need and that the Parks are not suitable locations for unrestricted housing and therefore does not provide general housing targets.

Development Plan

Policy HC1 of the Core Strategy sets out the Authority’s approach to new housing in the National Park; policy HC1(C) I and II say that exceptionally new housing will be permitted in accordance with core policies GSP1 and GSP2 if it is required in order to achieve conservation and/or enhancement of valued vernacular or listed buildings or where it is required in order to achieve conservation or enhancement within designated settlements.

L3 is particularly relevant, as it deals with cultural heritage assets. It explains that development must conserve and where appropriate enhance or reveal the significance of historic assets and their setting. Other than in exceptional circumstances, development will not be permitted where it is likely to cause harm to the significance of any cultural heritage asset or its setting.

Local Plan policy LC4(a) says where development is acceptable in principle, it will be permitted provided that its detailed treatment is of a high standard that respects, conserves and where possible it enhances the landscape, built environment and other valued characteristics of the area. Local Plan policy LC4(b) goes on to say, particular attention will be paid to scale, form, mass and orientation in relation to existing buildings, settlement form and character, landscape features and the wider landscape setting.

Policy LC5 states that applications for development in a Conservation Area, or for development that affects its setting or important views into or out of the area, should assess and clearly demonstrate how the existing character and appearance of the Conservation Area will be preserved and, where possible, enhanced.

Policy LC6 states that planning applications for development affecting a listed building and/or its setting should clearly demonstrate how these will be preserved and where possible enhanced; and why the proposed development and related works are desirable or necessary.

Policy LC8 states that, conversion of a building of historic or vernacular merit to a use other than that for which it was designed will be permitted provided that: it can accommodate the new use without changes that would adversely affect its character.

Policies LC17, LC18 & LC19 jointly seek to ensure that no harm is caused to protected species as a result of development being carried out, and that where appropriate safeguarding measures are exercised.

LT11 and LT18 require satisfactory parking and safe access as a pre-requisite for any development.

Wider Policy Context

The Authority's adopted Supplementary Planning Document entitled 'Meeting the local need for affordable housing in the Peak District National Park (July 2003) is relevant and provides more detailed policy in regard to affordable housing within the National Park. The Authority's adopted design guide is also relevant in regard to detailed design guidance.

Assessment

Principle of removing the holiday let occupancy condition to permit occupation as an open market dwelling

Bean Hill Farm and the barn subject of this application are considered to be valued vernacular buildings, being attractive and well detailed traditional buildings that also make an important contribution to the street scene and character of the conservation area in this location. If conversion of the barn to an open market dwelling was required to conserve then it would therefore be compliant with policy HC1.

However, whilst the applicant's agent has advised that works are "far from complete" (although no further detail has been provided of outstanding works) the works to convert the building to a holiday let are already at an advanced stage; the building has been re-pointed, has a new roof, and the majority of new doors and windows have been installed.

As such its conservation has already been secured. For this reason it is not considered that conversion to an open market dwelling through removal of the occupancy condition is required for the buildings conservation, and such a recommendation would therefore be contrary to policy HC1.

The applicant's agent has noted that this approach could be seen as dogmatic, particularly given that the proposal would result in no further adverse impacts in their view. However, this approach is consistent with that which the Authority has adopted in other cases where conservation has already been achieved, and that position has been upheld by the Planning Inspectorate on appeal in each instance it has been tested. In addition, use of the building as a holiday let as approved not only complies with planning policy, but also meets the Authority's statutory purpose to promote enjoyment of the National Park.

The public support in relation to village vitality for the proposal is noted and is material, but the Authority's statutory duty and responsibilities under national policy to foster the economic and social well-being and vitality of local communities are enshrined in the policies of the Development Plan which seek to secure this, principally through the provision of affordable housing and the protection and provision of community services.

It has been advised by the applicant's agent that the viability of the conversion is in doubt. Issues of viability could be a material consideration, were the works required to conserve the building not already substantially complete, which they are considered to be. Even if the works were less advanced, it is entirely possible that a valuation of the building with the current holiday restriction in place would demonstrate it to be viable as an investment, particularly given its location.

In summary, it is not considered that circumstances exist in this case to make an exception to the normal application of established planning policy.

Variation of conditions addressing bat mitigation measures

The bat survey that accompanied the original application identified the barn as providing bat habitat and proposed restoration of the smaller field barn to the east to provide alternative bat habitat, mitigating the loss of this in the main barn. This mitigation was then secured by Condition 18 when permission was granted.

Since that time the applicant has sought permission from Natural England for the necessary licence for works in so far as they relate to bats and their habitats. Natural England advised that the proposed measures and post-construction monitoring were greater than would usually be expected to compensate for a proposal with the impacts of proposed scheme, which they consider to be low status. This conflicts somewhat with the view of the Authority's Ecologist who advises that the species present mean that the site falls between low and medium conservation significance in relation to bat habitat.

As a result of Natural England's view, revisions were made to the applicant's licence submission and a scheme of reduced mitigation was agreed and licence issued. This revised scheme abandoned the reinstatement of the barn, favouring instead the erection of a number of bat boxes around the site. This has the effect of omitting a roost within a loft space that could be occupied by brown long-eared bats; the Authority's Ecologist advises that this species will be unlikely to roost in the proposed bat boxes.

Compliance with the previously approved scheme would therefore now not comply with the licencing agreement.

However, this in itself is not a reason to relax the condition as the Authority is able to require stronger ecological mitigation and enhancement measures than might be required by the licence under its responsibilities to comply with various planning and environmental legislation and

guidance, as detailed in the response of the Authority's Ecologist, above. Indeed, it is the recommendation of the Authority's Ecologist that the condition is maintained as imposed in order to secure what they consider to be the necessary level of enhancement of bat habitat.

However, in planning terms any condition must, amongst other things, be both reasonable and necessary.

There is a significant difference between the mitigation scheme approved by condition and that granted licence by Natural England in terms of the burden it places on the applicant. In granting the licence Natural England have considered the revised mitigation to achieve favourable conservation status, and have identified the loss of the existing roosts as low status. The Authority's Ecologist considers the habitat to have a higher conservation significance (low-medium).

It is noted that the guidance for low-medium conservation significance habitats advises that mitigation includes "provision of new roost facilities *where possible*".

This case is finely balanced, and there is some discrepancy between the position of Natural England and the Authority's Ecologist on the matter. Given all of the facts above though it is considered that the proposed revisions to the mitigation measures would reasonably conserve the bat interests of the site.

Conversely, in light of the position of Natural England, it is considered that whilst maintaining the current condition would provide greater enhancement to the bat habitat at this location it would be not be reasonable, in planning terms, to put the applicant to the cost and effort of rebuilding the barn.

In addition, the Authority's Archaeologist has advised that the retention of the field barn, which they consider to be a non-designated heritage asset, in its current state would better conserve the archaeological interest of the site than the approved scheme, and they therefore support the proposal.

On the basis of all of the above, it is recommended that the proposal to vary the existing condition to one requiring the development to be carried out in accordance with the terms of the licence agreement is approved.

Condition 19 would no longer serve a planning purpose if Condition 18 was amended as proposed, because it related to restricting the provision of lighting around the bat barn. It is therefore recommended that this condition is removed if the revised ecological mitigation measures are approved.

Other issues

The proposal makes no changes to either the external or external appearance of the building and as such is considered to conserve its character and appearance.

Impacts on neighbouring amenity would remain largely unchanged from the approved use, which would also permit occupation by single group or family; occupation on a permanent residential basis may result in a minor reduction in disruption and noise, as the occupiers would have a greater interest in maintaining a good relationship with the neighbours.

The parking requirements associated with the building would be the same for both a holiday let and for an open market dwelling, and no changes to the parking layout are proposed. The proposal is therefore considered acceptable in this regard.

There have been no further material or planning policy changes that affect the applicability of the other previously imposed conditions, and so it is recommended that these are re-imposed to ensure that the development complies with planning policy and remains acceptable in other regards.

Conclusion

The conservation of the building is considered to already have been secured by the works to date, and therefore the removal of the occupancy condition is not justified and would be contrary to planning policy.

It is considered that the requested variation of ecological mitigation conditions would conserve the ecological interests of the site and this is therefore considered acceptable and to accord with planning policy.

All other material issues have been considered and the development has been found to have acceptable impacts in these regards.

It is therefore recommended that the Authority refuse to vary or remove Condition 3 of NP/HPK/0113/0071, and that all other previous conditions are re-imposed, subject to the variation of Condition 18, and to the removal of Condition 19.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil