

11. SECTION 73 APPLICATION - VARIATION OF CONDITION 2 OF PLANNING APPROVAL NP/DDD/0317/0250 RELATING TO THE PROVISION OF CAR PARKING AT ROCK VIEW COTTAGE, EAST BANK, WINSTER (NP/DDD/0318/0264, P5817 + P1225, 424044/360366, 27 APRIL 2018/ALN)

APPLICANT: MR CHRIS HIGGS AND MRS SUE HARRISON

1. Site and Surroundings

- 1.1 Rock View Cottage is a domestic property located on the south-western edge of Winster village. To the north and east of the property are other residential dwellings and to the south and west is a roughly triangular shaped piece of 'common land' which sits between East Bank and West Bank. The property is within the Winster Conservation Area.
- 1.2 The house itself is detached and has a private garden adjacent to it. In addition, there is a detached piece of land just to the south of the house that is also used as domestic curtilage in association with the Rock View Cottage and which contains a further formal garden, a parking area and a large garage.
- 1.3 To the north of the house, and separated from it by a public footpath is an outbuilding which was converted to ancillary accommodation in 2004. (NP/DDD/0804/0908). In April 2017 planning permission was granted to convert the building to a separate B1 office use, to be used independently from Rock View Cottage (NP/DDD/0317/0250). That permission has not yet been implemented.
- 1.4 Vehicular access to Rock View Cottage and the ancillary building is currently gained across the common land from the public highway (East Bank) to the south. Whilst the applicant does not own this land, it is understood that there is a right of access over it.

2. Proposal

- 1.1 This is a section 73 application that seeks permission to vary condition no.2 of planning approval ref NP/DDD/0317/0250. Condition no.2 reads '*The development hereby permitted shall not be carried out otherwise than in completed in accordance with the submitted plans and plan no. 847.01 subject to the following conditions or modifications.*'
- 1.2 Plan no. 847.01 is a block plan that shows the proposed parking allocation for Rock View Cottage and for the new office unit. It shows two spaces within the existing garage for the office unit and two spaces within the garden area to the east. Following a discussion with the Highway Authority it had been concluded that the garage is suitable for the parking of one car only but that one parking space for the office unit was sufficient to meet parking standards. Therefore condition no.3 required one space to be provided for the office and two for Rock Cottage.
- 1.3 The current proposals are to provide one parking space within the garage and three parking spaces within the garden area. The additional space within the garden area would be provided by excavating out a modest area of the garden to provide a level surface. This would result in the removal of five garden trees.

3. RECOMMENDATION

That the application be APPROVED subject to the following conditions:

- 1. Time limit for implementation**

2. Adopt submitted plans

- 3. Premises not to be taken into use until the approved car parking has been laid out and parking to be thereafter maintained for use throughout the life of the development**
- 4. Use of the building shall be as an office and for no other purpose whatsoever without express planning consent from the National Park Authority (including any other purpose in Class B1 of the schedule to the Town and Country Planning (Use Classes) Order 1987 or in any order revoking and re-enacting that order.)**
- 5. Before any of the trees on the approved plan are removed details of a native hedgerow to be planted along the eastern boundary of the site shall be submitted and agreed. Thereafter the planting shall be completed in the first planting season following the parking spaces being first brought into use.**

4. Key Issues

- Whether the additional parking space would cause harm to the amenity of the neighbouring property.
- Whether the proposals result in adequate parking space to meet the needs of the development.

5. Relevant Planning History

June 2017 – application for change of use of ancillary accommodation to separate holiday let approved.

June 2017 – application for change of use of ancillary accommodation to a separate B1 office use approved.

July 2016 – application for change of use of ancillary accommodation (to Rock View Cottage) to a separate B1 office use withdrawn.

July 2016 – application for change of use from ancillary accommodation (The Lodge) to a separate holiday let withdrawn

December 2005 – permission granted for conversion of former cowshed to ancillary accommodation.

October 2004 – permission granted for replacement porch and dining room extension (to Rock Cottage)

July 1998 – permission refused for single storey extension off front elevation of Rock View Cottage.

January 1998 – permission refused for two storey extension off front elevation of Rock View Cottage

1987 – permission granted for alterations to roof structure at Rock View Cottage.

1983 – permission granted for two storey side extension to Rock View Cottage.

6. Consultations

Highway Authority – the manoeuvring space to the rear of the spaces is less than the 6m recommended – the width of the parking exceeds that required for three spaces so the width of

the individual spaces would be increased to enable manoeuvring. Subject to the above, no highway comments.

District Council – no response.

Parish Council - the site plans submitted appear to be incorrect as they show the land to be common land, when in fact this area is in the ownership of Heathcotes Barn. It is noted that from the submitted plans that it is proposed to remove a total number of five trees to enable the development to take place. It is acknowledged that the trees in question are not of native species, however they do contribute to the appearance of the Winsters Conservation Area, provide a habitat for wildlife (including bats) and offer privacy to neighbouring properties. No alternative planting scheme is proposed in mitigation. Substandard manoeuvring space within site will lead in vehicles reversing into/out of site causing potential conflict with pedestrians on the common. Previous points raised in objections to original application have not been addressed.

7. Representations

7.1 One letter of objection has been received from the owner of an adjacent property Heathcotes Barn on the grounds of :

- Loss of trees – this would be devastating to wildlife in the area. The trees also provide a baffle for noise and nuisance and absorb emissions created by current parking.
- Impact on Nature Conservation – loss of trees would impact on bird habitats and possibly bats.
- Smells/fumes/noise – all noise, nuisance and emissions would be directed towards Heathcotes barn and the patio area over the adjoining wall. Noise from car engines, unloading, car doors slamming and people talking loudly will cause extra noise and nuisance.
- Light pollution.
- Design and Appearance and impact on landscape.
- Access – there is only one access point for the parking – this would lead to constant manoeuvring of vehicles to access the parking causing extra emissions along with noise and nuisance to neighbours.
- Overbearing presence near common boundary. Works to create parking area could undermine stability of the boundary wall.

8. Policies

8.1. National Park designation is the highest level of landscape designation in the UK. The Environment Act 1995 sets out two statutory purposes for national parks in England and Wales:

- Conserve and enhance the natural beauty, wildlife and cultural heritage
- Promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public

When national parks carry out these purposes they also have the duty to seek to foster the economic and social well-being of local communities within the national parks.

National Planning Policy Framework

- 8.2. The National Planning Policy Framework (NPPF) was published on 27 March 2012 and replaced a significant proportion of central government planning policy with immediate effect. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and saved policies in the Peak District National Park Local Plan 2001. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.
- 8.3. Para 115 of the NPPF states that *'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.'*

Development Plan policies

- 8.4. Policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GSP1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.
- 8.5. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities. Saved Local Plan policy LC4 also seeks to protect residential amenity.
- 8.6. Policy E1 supports proposals for business development within or on the edge of settlements named in policy DS1 provided that the proposals are of a scale that is consistent within the needs of the local population and wherever possible should involve the re-use of traditional buildings of historic or vernacular merit. Policy LT11 states that residential parking must respect the valued character of the area and LT18 states that the highest standards of design for transport infrastructure must be used.

Relevant Core Strategy (CS) policies: GSP1, GSP2, GSP3, DS1, L3, E1

Relevant Local Plan (LP) policies: LC4, LT11, LT18

9. Assessment

Issue 1: Whether the additional parking space would cause harm to the amenity of the neighbouring property.

- 9.1. Heathcotes Barn is a detached barn conversion that was approved in November 2005 (NP/DDD/0804/0920). The barn conversion itself is located approximately 18m to the south of the garden area associated with Rock Cottage. The area to the north of the barn is laid out and used as domestic curtilage in association with this property. The western boundary of this area used as garden abuts the eastern boundary of the area to be used for car parking.
- 9.2. For the reasons listed above, the occupier of Heathcotes Barn considers that the proposals would cause harm to their residential amenity due to the proximity to the boundary with their garden and patio area. When planning permission was granted for the conversion of Heathcotes Barn to a dwellinghouse in 2005, condition no 12 of the approval required the residential curtilage to be confined to a limited area close to the house. The 'garden' area that abuts the boundary with the application site was a paddock at the time of the application and this was required to be excluded from the garden. As this area is currently being used as garden this appears to be a breach of the condition (which may have become immune through the passage of time – further investigation would be required in this respect and an enquiry has been registered on the Authority's systems which the Enforcement Team will investigate). If the condition is being breached then any impact on 'residential amenity' as a result of this area being used as garden unlawfully cannot be given any significant weight.
- 9.3. Notwithstanding whether the use of the area of land at Heathcotes barn as garden is lawful, officers consider that the creation of one additional off street parking space within the curtilage of a dwellinghouse in a village setting is inherently unlikely to result in any significant loss of amenity, even if it is adjacent to another garden. The close proximity of parked cars (and the associated manoeuvring and activity) with other residential property is unavoidable and accepted within residential areas. In fact, if the approved development was not implemented then the applicant, as a householder, could create additional hardstanding within their garden as 'permitted development'. Planning permission is required in this case due to the limitations of conditions on the planning approval for the change of use of the outbuilding.
- 9.4. It is proposed to remove a number of non-native garden trees (five in total) on the eastern boundary of the site to provide space for the proposed car parking space. These consist of three lleylandii trees, a goat willow and a Norwegian pine. A tree survey has not been submitted but it is considered that these trees have low value in terms of their individual qualities. They do provide a buffer between the two properties but it is not considered that their loss would cause an unacceptable impact on amenity because, although the boundary would be more open, there would still be a drystone boundary wall in place. The applicants have offered to plant a native hedgerow along the boundary next to the wall to mitigate the loss of the trees. It is considered that this would potentially offer an improved habitat for nesting birds and would provide an acceptable boundary and buffer between the properties. This can be required by condition. It is considered that subject to a condition to secure the native hedge planting, the development would not be harmful to biodiversity or to any protected species.
- 9.5. In conclusion it is considered that the proposals would not cause harm to residential amenity and therefore accord with policies GSP3 and LC4 in these respects.

Issue 2: Whether the proposals result in adequate parking space to meet the needs of the development.

- 9.6. Although the approved parking plan showed the provision of two parking spaces within the garage and two within the garden it was acknowledged by the Highway Authority that space within the garage building is restricted and therefore it would be difficult to fit two standard sized vehicles within it. It was advised by the Highway Authority that one parking

space for the office unit would be adequate and therefore condition no.3 required the provision of one parking space for the office unit and two for Rock Cottage. Under the current proposals an additional off street parking space would be provided that could serve either of the two properties.

- 9.7. Given the issues with parking on the common land to the west of the application site the provision of an additional off street parking space is welcomed in principle and would improve parking provision for the property. The Highway Authority have confirmed that with some minor adjustment to the layout there would be sufficient space for manoeuvring to allow vehicles to exit the site in a forward gear. This is an improvement on the approved scheme where vehicles would have had to reverse out onto the common land. The proposals therefore accord with policies LT11 and LT18.
- 9.8. It is not considered that the provision of an additional space would cause harm to the character and appearance of the Conservation Area as the area in question is not visible from the common land, being screened by the existing garage and due to prevailing land levels.

10. Conclusion

- 10.1. In conclusion the proposed amendments would result in an additional off street parking space to serve the needs of the development, which would help to alleviate pressure for parking on street or on the adjacent common land. The proposals would not cause harm to the character of the Conservation Area or to residential amenity subject to a condition for the provision of a native hedgerow along the eastern boundary of the site. It is therefore recommended that condition no.2 is amended to reflect the revised plans.
- 10.2. As this is a section 73 application it would effectively grant a wholly fresh planning consent. Therefore the remaining conditions on application ref NP/DDD/0804/0920 have been examined to ascertain whether they still meet the tests for conditions. Condition no.3 should be amended to take account of the revised layout. The remaining conditions (which relate to the implementation time period and removal of permitted development rights) are still necessary and reasonable and should be repeated. An additional condition to require a native hedgerow to be planted along the eastern boundary is also necessary and reasonable in the interests of biodiversity enhancements and the character and appearance of the area.

11. Human Rights

- 11.1. All human rights issues have been identified in the preparation of this report.

12. List of Background Papers (not previously published)

None

Report Author and Job Title

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