

8. FULL APPLICATION - SECTION 73 TO VARY CONDITION 2 OF NP/HPK/0515/0491 TO COVER THE INCLUSION OF A CROP DRYING SYSTEM FOR THE POTATO STORE AT KNOTLOW FARM, WORMHILL, BUXTON (NP/HPK/0618/0511 SW)

APPLICANT: MR GLEN MOSELEY

Site and Surroundings

1. The site is located in Wormhill at Knotlow Farm. The house and traditional barns on the site benefit from being Grade 2 listed in their own right or from being within the curtilage of the listed building. The majority of the group of farm buildings are also within the designated Conservation Area. The application site itself is outside but adjoins the Conservation Area. The building has been erected and the crop drying system which is the subject of this application has been installed. The application is therefore retrospective.
2. Two PROW footpaths converge close to the site. The site of the proposed building will not affect a PROW. There is another path shown to the rear of the building that may have been affected, but this is not shown on the Authority's mapping system as a PROW or to have any other designation.
3. The nearest properties to the site are Holly House to the south west of the site, and The Old Vicarage and a cottage to the south of the site which are both also Grade 2 listed buildings. The boundary to Holly Houses garden is approximately 5m away from the building, with a public footpath between the building and the boundary to that property's garden.
4. There are mature trees to the south of the site, outside the applicant's ownership.

Proposal

5. The proposal is to vary the approved plans to permit the installation of a crop drying system which externally requires the installation of three cowls/vents.
6. The cowls/vents and crop drying system are already installed, they were at or shortly after the point of construction, the application seeks to regularise these. The application includes supporting information including a noise impact assessment which explains that alterations to the installation are required to mitigate the noise it generates. This includes the installation of silencers.
7. As submitted there were no elevation drawings, but these have now been provided.

RECOMMENDATION:

That the application be APPROVED subject to the following conditions or modifications:

1. **Standard time limit**
2. **The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted plans 'SIDE ELEVATION', 'SOUTH ELEVATION' and specifications, subject to the following conditions or modifications.**

- 3. Prior to the development hereby approved being brought into use, noise mitigation measures no less effective than those outlined within the submitted Noise Impact Assessment (Peak Acoustics ref: PA482, dated 8th March 2018) shall be implemented, and tested to the written satisfaction of the Authority which shall include submission to the Authority of an appropriate noise mitigation validation report for consideration. If the mitigation is found to be less effective than outlined it will need to be upgraded to be as effective as outlined. Once the results of the Noise Mitigation Validation Report has been found to be satisfactory the building can be brought into use and thereafter the approved mitigation shall be maintained for the life of the development.**
- 4. Rated noise from the development shall not exceed the background noise levels as determined in the submitted Noise Impact Assessment (Peak Acoustics ref: PA482, dated 8th March 2018), of 27dB(A); when measured (or calculated) at the façade of any noise sensitive premises. Measurements and calculations shall be undertaken in accordance with the procedures outlined in BS4142:2014.**
- 5. Rated noise from the development shall not exceed the background noise levels as determined in the submitted Report Reference CH1910171NR (Peak Acoustics 17th August 2018), of 36dB(A); when measured (or calculated) at the boundary of any dwelling's garden. Measurements and calculations shall be undertaken in accordance with the procedures outlined in BS4142:2014.**
- 6. The sheeting for the roof and walls and the finish of the cowls/vents shall be factory colour-coated to BS 5252 Ref. No. 18B29 and thereafter these shall not be repainted or replaced other than that colour without the prior written approval of the National Park Authority.**
- 7. The sheeting for the walls shall overlap or replace the concrete panels down to ground level.**
- 8. The landscaping tree and shrub planting shown on 'Landscape Plan' and 'Landscape Plan Supplementary Details' which were received by the Authority on the 3rd January 2018 and approved by application NP/DIS/0917/0930 shall be carried out in the first planting and seeding seasons following occupation of the building or completion of the development whichever is the sooner. Any walling or surfacing shown on the plans approved by that decision shall be completed before the building is first occupied. Any trees or plant 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.**
- 9. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, (or any order revoking and re-enacting that order) the building hereby permitted shall not be used for any other purpose other than for the purposes related directly to agriculture as defined by s.336 of the Town and Country Planning Act 1990.**

10. **When the building hereby permitted is no longer required for the purposes of agriculture it shall be dismantled, removed from the site and the site shall be restored to its original condition.**
11. **The building hereby permitted shall not be used for the rearing or keeping of livestock at any time during the lifetime of the development hereby permitted.**
12. **No chemicals shall be brought into the building (hereby approved) for use on the crop stored within or introduced to the crop drying/ventilation system of the building or applied to the crop stored within the building.**

Key Issues

- The impact of the crop drying system on its setting in particular how it may affect the amenity of neighbouring properties; and design and impact on buildings setting.

History

8. NP/HPK/0700/103 Erection of agricultural building. Granted conditionally.
9. NP/HPK/0713/0618 Erection of agricultural building for implement shed and to cover midden. Granted conditionally.
10. In 2015 planning permission was granted for the building via application NP/HPK/0515/0491. This was implemented but not carried out as approved as a ventilation system was installed resulting in 3 external vents on the south east facing elevation. Planning conditions included roof and walls to be dark blue 18B29, the sheeting for the walls to overlap and replace the concrete panels down to ground level, submission of a landscaping scheme, remove PD rights for change of use, remove building when no longer required, shall not be used for the rearing or keeping of livestock throughout the lifetime of the development.
11. In 2017 a landscaping scheme was accepted via a discharge of conditions application to agree the details of the landscaping scheme required by condition 5 of the 2015 permission.
12. In 2017 a non-material minor amendment application was refused for fitting 3 ventilation cowls to the south-east elevation of the building. This was because during the processing of this application some significant complaints have been received in relation to noise from the mechanical extract system in the building. They were advised that a planning application would be needed to vary the relevant condition and that any such application would need to include replacement plans and a noise impact assessment to assess the impact of the noise on neighbouring properties and that this be carried out by a suitably qualified acoustician.
13. In 2017 an enforcement case was created in relation to breach of conditions 4 and 5 of planning permission NP/HPK/0515/0491 and unauthorised vents.

Consultations

14. Highway Authority – No comments
15. District Council – No response to date.

16. District Council Environmental Health Officer – The Environmental Health Department has no objection to the proposed development subject to their suggested conditions being applied to any permission granted.
17. The proposed development could lead to an increase of noise experienced at noise sensitive domestic premises, and a loss of general amenity in the area. The submitted Noise Impact Assessment (Peak Acoustics ref: PA482, dated 8th March 2018) suggests that noise impact can be mitigated to limit impact to residential premises. To achieve this, conditions are recommended to ensure that best practice is employed to protect general amenity of the area.
18. Wormhill Parish Council – Unable to recommend approval of the application and will need to have more detailed information from the Authority to the effect that the system being operated in the building meets with all local and legal requirements, including health and safety issues prior to any material judgement being made by the Parish Council on the planning application.

Representations

19. Seven representations in objection to the scheme have been received. None have been received which are in support of the scheme.
20. Objections are raised on the following grounds :
 - Size and scale of the building and proximity to nearby dwellings, listed buildings and Conservation Area and footpaths.
 - Noise impact on amenity in the nearby dwellings Holly House, The Old Vicarage Bagshaw Arms and Wellhead Farm it also being audible from within some of these dwellings.
 - Noise impact on its general setting.
 - Independent tests by the Environmental Health Officer have shown that the noise level from the crop drying system indicate a significant adverse impact.
 - The fans are on for over 24 hrs at a time, both day and night, audible at all times. The stated times of operation are not correct.
 - The possible use of chemicals now or in the future and their impact on health and amenity for nearby residents including applying these in the building or them escaping from the building from the pre-treated crop.
 - Retrospective nature of the application for the crop drying system, which appears to have been withheld from the original application given that it appears to have always required this 'Essential' system.
 - There are discrepancies between the Environmental Health Officer's findings and the submitted noise impact assessment which brings into question the suitability of the proposed silencer to mitigate the noise generated by the crop drying system.
 - The crop drying system is not essential. The applicant has been growing potatoes for many years without the potato store and associated crop drying system.
 - What might have been tolerated as an agricultural store now turns out to be a process plant more suited to an industrial development.
 - Some errors in the forms in relation to proximity to footpaths.
 - Contrary to what the design and access statement suggests the approved landscaping scheme was not designed to take account of the proposed cowls.
 - Irritation of the eyes and skin following a 'chemical' smell experienced in a nearby neighbours' garden at 'The Old Vicarage', the odour apparently emanating from the potato shed.
 - The noise impact assessment states that the units would exceed background noise levels by 11.1dB, however the tables in the report show that it would be 15.1dB over. The objector considered this difference to be significant as it is a logarithmic scale.

- Testing of any attenuated system should be carried out before it is allowed to operate to assess if the mitigation measures are effective. This should be built into the planning conditions.
- Any sound attenuation measures should be based on the fan at maximum speed as the speed of the fan is automatic and cannot be controlled.
- Objectors remain unconvinced that the proposed sound attenuation measures will be sufficiently effective to reduce the noise level of the crop drying system to below ambient noise.

Main Policies

21. Relevant Core Strategy policies: GSP1, GSP2, GSP3, GSP4, L1, L3, T6.
22. Relevant Local Plan policies: LC3, LC4, LC5, LC6, LC13, LC21, LT20.
23. 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.
24. 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.
25. National Planning Policy Framework
26. The revised National Planning Policy Framework (NPPF) was published in July 2018 and replaced the 2012 NPPF 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.
27. Paragraph 172 of the NPPF states that *'great weight should be given to conserving and enhancing 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 these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads.'*
28. Development Plan Policies
29. 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). GPS1 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.

30. Policy GSP2 explains that opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon. Opportunities will be taken to enhance the National Park by the treatment or removal of undesirable features or buildings.
31. Policy GSP3 explains that all development must conform to the following principles: Development must respect, conserve and enhance all valued characteristics of the site and buildings that are subject to the development proposal. Amongst other things particular attention will be paid to: Impact on the character and setting of buildings; scale of development appropriate to the character and appearance of the National Park; siting, landscaping and building materials; design in accordance with the National Park Authority Design Guide; impact on living conditions of communities.
32. GSP4 explains the Authority will consider the use of planning conditions to aid the achievement of the spatial outcomes of a scheme.
33. Policy L1 requires that development must conserve and enhance valued landscape character, as identified in the Landscape Strategy and Action Plan, and other valued characteristics.
34. Local Plan Policy LC4 requires that the detailed treatments of development is of a high standard that respects, conserves and where possible enhances the landscape, built environment and other valued characteristics of the area. Particular attention is paid to: scale, form, mass and orientation in relation to existing buildings, settlement form and character, landscape features and the wider landscape setting; the degree to which design detail, materials, and finishes reflect or compliment the style and traditions of local buildings; the use and maintenance of landscaping to enhance new development, and the degree to which this makes use of local features and an appropriate mix of species suited to both the landscape and wildlife interests of the locality; the amenity, privacy and security of the development and of nearby properties.
35. LC13 deals specifically with agricultural developments and it is permissive provided they are close to the main group of buildings wherever possible and it relates well to them. It must avoid harm to the areas valued characteristics including local views, making use of the least obtrusive or otherwise damaging location and must not require obtrusive access tracks, roads or services. These need to be designed with particular respect for the landscape and its historic patterns of land use and movement, and any landscape change likely to result from agricultural or forestry practices.
36. Local Plan Policy LC5, LC6 and Core Strategy policy L3 would not permit development that harmed the significance of the Conservation Area or Listed Building.
37. LC21 deals with pollution and disturbance. Development that presents a risk of pollution or disturbance that could adversely affect amongst other things the amenity, ecology or other valued characteristic of the area will not be permitted unless adequate measures to control emissions within acceptable limits are put in place and (when the permitted use finishes) appropriate removal of any pollutants from the site is assured.
38. If the proposal affected the definitive route of a PROW Core Strategy Policy T6 in combination with Local Plan Policy LT20 would only permit development which provides an alternative which is of equal or better quality than the original.
39. The Authority has produced an SPG for agricultural buildings. This explains at paragraph 2.17 that farm development must be fully explained and justified and at paragraph 2.18 that failure to supply adequate information may lead to refusal. The SPG explains the basic requirements for an application. Paragraph 3.1 explains that because of the natural beauty of the National Park, new agricultural buildings can have a very damaging impact on their

surroundings without careful thought to siting, design and appearance. Paragraph 3.4.5 this explains that it is best to keep new agricultural buildings close to the existing ones, relate well to them and make the best use of trees, walls and other landscape features. Paragraph 3.6.3 explains the use of dark tones will help to reduce a buildings impact.

40. The relationship between the Core Strategy and the National Planning Framework has also been considered and it is concluded that they are consistent because the NPPF recognises the special status of National Parks and promotes sustainable development sensitive to the locally distinctive character of its setting.

41. **Assessment**

42. Considering the above, the Development Plan and other material considerations are generally supportive of agricultural development where it is necessary, provided it would not harm the amenities or valued characteristics of the area. Appropriate design, siting and landscaping are required.
43. The justification for the building and its general scale, massing and siting have all been accepted previously through the 2015 permission which this application seeks to vary. The principle of the development is not a matter for consideration in this application. Refusal of this application would not result in the building itself being refused (as this already had permission via the 2015 application), only the alterations to the external appearance of the building to facilitate the crop drying system, which if refused, would be open to enforcement action.
44. The submitted justification explains that the crop drying system is essential. The building was not permitted with the external components to facilitate a crop drying system so this is the first opportunity that the Authority have had to consider the planning issues that this system raises.
45. The site is open to public and private views. In particular it is open to view from the adjacent footpaths and from the rear gardens of the nearby residential properties.
46. The appearance of the cowls/vents on the south east elevation are functional and utilitarian in appearance. They are finished to match the rest of the building so their visual impact is already considered to be as limited as possible. In the context of the existing building they do materially alter the external appearance of the building, so are development requiring planning permission, but do not have an unacceptable visual impact when considered in the context of the whole building. Officers would not support a refusal on aesthetic grounds or for their impact on the character and appearance of the adjoining Conservation Area.
47. The Authority have received complaints in relation to the noise from the existing crop drying system. An enforcement case was opened and led to the submission of this application seeking to regularise the development.
48. In its present form the crop drying system is loud relative to background noise levels in the area. The submitted noise impact assessment explains that background noise levels at the nearest noise sensitive receptor are 25.5dB (LA90 15min) and the proposed crop drying system is 11.1 dB higher than this. Therefore the noise from the crop drying system is classified as a 'significant adverse impact' under the relevant BS Standard.

49. The submitted noise impact assessment explains that mitigation is necessary. This comprises installing silencers designed to attenuate the noise and which the report concludes would result in the system being classed as low impact, which means that it would be at or below the background noise levels. The actual predicted noise level is a reduction from 41.6 dB LAr to 17.1 dB LAr which is 9.4dB below the lowest measured background level. This is based on noise diminishing at a distance of 40m from the noise source, so relevant for all the nearby noise sensitive dwellings (but not their gardens). An addendum to the Noise Report has been submitted which clarifies this.
50. The District Council's Environmental Health Officer (EHO) has been consulted on the scheme and advised that the development could lead to an increase of noise experienced at noise sensitive domestic premises and a loss of general amenity in the area if unmitigated. Conditions are recommended to secure the mitigation, and subject to those conditions they do not object to the proposal.
51. It is noted that one of the EHO's recommended conditions limits the months during which the crop drying equipment is used, which is in line with the submitted Planning Statement. However, on discussing this with the applicant, there may be exceptional times when operation of the crop drying system is needed outside of those stated months. The applicants are therefore reluctant to accept such a condition (notwithstanding that it forms part of their proposal) unless it is absolutely necessary. Planning officers consider that given the conclusions of the noise report, and the other EHO suggested conditions, that these will provide adequate mitigation to ensure that the noise from the crop drying system will be attenuated and amenity protected. Therefore it is not necessary in planning terms to limit the months of operation.
52. Officers note that there are objections raised in relation to the impact of the noise from the crop drying system on the amenity of nearby residents. The issues raised in the objections relate to the existing noise impact but also raise concerns that the silencers potentially may be ineffective. The Environmental Health Officer considers that subject to their suggested conditions the noise impacts will be reduced to an acceptable level. There is no reason to doubt that the silencers will not work as predicted; however, if the noise levels exceed that set out in planning conditions then the site would be open to enforcement action.
53. An objection also raises issue with the identification of the nearest noise sensitive property not including their garden which is nearer to the noise source than the house. Additional information has been provided which shows background noise levels for the outdoor spaces (based on the hours of 07:00 to 23:00) to be 36.3dB. At 5m the noise level of the fan would be 35.1dB; this is lower than the background noise level for the amenity space and the impact can be classed as low impact. The fan noise level diminishes to 29.1dB at 10m, 23.1dB at 20m and 19.6 dB at 30m. Therefore, officers consider the impact of the noise on the neighbouring properties outdoor amenity spaces to be acceptable. Its impact on the adjacent footpath is also considered to be acceptable. Planning conditions can ensure the background noise levels are not exceeded at the boundary to the nearby dwelling's gardens.
54. Objectors have also raised concerns that the noise impact assessment does not clearly set out that the noise of the system has been tested at all speeds of operation. The planning agent has explained that there is only one speed of operation, it is either on or off. Officers consider that the controls being placed on the system by virtue of the conditions suggested by Environmental Health relate to levels of noise, so if this is exceeded then the development would be in breach of the relevant planning condition and be open to enforcement action.
55. Objectors also raise the issue of chemicals being used in the building or escaping from the building from the pre-treated crop via the crop drying system. The applicant has submitted statements which explain that the plants are treated for potato blight in the fields, but no chemicals are used on the harvested potato crop itself and that no chemicals are used in the

building. Treating the crop for potato blight in the fields is outside the control or consideration of this application, and as no chemicals are used in the building, this seems to satisfy much of the general concern of the objectors. It does not address the potential escape of chemicals from a pre-treated crop, via the crop drying system; however as the plant is treated rather than the crop itself, this concern is allayed.

56. Objectors also have concerns over whether the applicant chooses to use chemicals in the future. Such chemicals are controlled by other regulatory bodies but there is a planning crossover where it could relate to amenity for example by virtue of odour or other nuisance. Given that the applicant's statements that no chemicals are used in the building it would serve a genuine planning purposes to secure this by planning condition. This would be in the interests of the amenity of nearby residential properties. It is also considered to meet the other tests for planning conditions and be in accordance with development plan policies in so far as the seek to protect amenity and control pollution including LC4, LC21 and GSP3.
57. This type of development is one which is only permitted with an agricultural justification. It is therefore considered reasonable and necessary to ensure that the building is retained for the purposes of agriculture throughout its lifetime and require the building to be removed if it is no longer required for the purposes of agriculture. This is in accordance with Core Strategy Policies GSP2 and GSP4.
58. Subject to the planning conditions set out above, the proposal is considered to be in accordance with the policies of the development plan as it is necessary for the purposes or agriculture and will not harm the character or appearance of its setting including the Conservation Area and will not harm the amenities of the site or nearby residential properties.

Conclusion

59. The current application is recommended for approval subject to conditions, because, subject to the conditions suggested in the above report, the proposals do not conflict with the Authority's development plan or national policies in the NPPF.

Human Rights

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

List of Background Papers (not previously published)

Nil

Report Author and Job Title

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