

7. FULL APPLICATION – RESTRICTED USE OF AN EXISTING OUTBUILDING AS A TEA ROOM AND TO USE THE GARDEN TO SERVE TEAS AND CAKES AT IVY COTTAGE, DALE HEAD, LYDGATE, EYAM (NP/DDD/0618/0562. JF)

APPLICANT: KATHLEEN HALL

Site and Surroundings

1. The property concerned is Ivy Cottage, located at Dale Head, Lydgate, Eyam. This is a detached cottage, situated within a Conservation Area at an elevated position above the village centre. The property is a single storey rendered structure with a pitched slate roof and timber windows and doors. The dwelling has a single storey aspect to the south east elevation and a UPVC conservatory to the south west elevation.
2. A sizeable rear garden is situated to the south of the site, where extensive planted areas and outdoor seating are located. A small outbuilding is situated in the eastern corner of the garden, and areas of foliage surround the perimeter. A small front garden is situated to the north of the site, with extensive planted areas and paving.
3. An outbuilding is situated to the far north of the front garden area, and this has been operating as a tea room. The outbuilding is a single storey stone-built structure, with a pitched slate roof and timber windows and doors. A door, window and sign are situated to the northern front elevation of this structure, and a further window is to the eastern side elevation. The north elevation of the structure has been painted white, and a flue has been installed within the roof to accommodate an internal wood burning stove. The application in question relates to this structure, which has been laid out with furniture and decorations to accommodate tea room customers.
4. Access to the property is via a track to the north of the site. The track can be approached from the B6521 to the north of the site, Lydgate to the east of the site, and Eyam Dale to the south west of the site. The access track is situated to the north and west of the site, and neighbouring residential properties are situated to the south and east of the site.

Proposal

5. A full application has been made for the restricted use of an existing outbuilding as a tea room and to use the garden to serve teas and cakes. The proposed opening hours and external spaces to facilitate this operation have been amended from those originally proposed.

RECOMMENDATION:

That the application be REFUSED for the following reason:

1. **The development as proposed, in relation to the outdoor seating will have an unacceptable impact on residential amenity for neighbours, and the character of the locality in relation to noise and disturbance.**

Key Issues

6. The key issues are whether the development is acceptable in principle, whether it would conserve the character, appearance and amenity of the existing property, its setting, that of neighbouring properties, and the surrounding Conservation Area, and whether the plans would affect the vitality and viability of Eyam Village Centre.

History

7. Pre-application enquiry PE\2017\ENQ\30015 was made in 2017 enquiring whether Planning Permission was required for the outbuilding to be used to serve tea and cakes on weekends approximately once a month. It was incorrectly advised that this proposed use would not require Planning Permission, under the condition that it was not used more than 28 days per year. (Uses allowed under permitted development can take place on land but not within buildings)
8. A series of enquiries and enforcement cases dating from 2017 and 2018 have been recorded, in relation to the unauthorised use of the outbuilding as a tea room and the provision of outdoor seating areas.
9. Pre-application enquiry PE\2018\ENQ\32125 was made in 2018 as to whether Planning Permission would be likely to be granted for the use the outbuilding as a tea room. It was advised that the restricted use of the building as a tea room may be acceptable and that the unrestricted use of the outbuilding as a tea room would be unlikely to be acceptable.
10. Application NP/DDD/0618/0552 was submitted in August 2018 for Advertisement consent- Erection of 5 signs. This application is pending consideration.

Consultations

11. Highway Authority – No objections. It was stated that the provision of on-site parking is recommended, but there is no objection on this basis. It was recommended that the applicant consults with the relevant refuse collection department to ascertain details of what will be acceptable to them in terms of number and location of bins.
12. District Council – No comments
13. Parish Council – No comments

Representations

14. Fifteen representations have been received in support of this application. These representations are identical, making use of the same letter. The representations complement the tea room and outdoor seating areas that have been created, stating that they are an asset to the village.
15. Five representations have been received objecting to this application. These representations are from the occupants of Daleside Cottage on The Dale, Davey Cottage on The Dale, Undercliffe on The Dale, Eyam Community Group, and Eyam Village Society. The representations raise concerns and the following concerns are material planning considerations:
 - The plans would set a precedent for commercial development in a residential area
 - Adverse impact on the character of the property
 - Impact on privacy and security due to the influx of visitors
 - Erosion of the access track
 - The access is dangerous and inaccessible to some
 - Unauthorised and excessive signage which has an adverse impact on the historic environment and causes confusion and obstruction
 - Overlooking from the seating area in the rear garden
 - Noise and disturbance within the site and along the access track

- Potential for large groups of visitors
The facility is too small to operate as a café
- Obstructions placed on Nicker Lane
- Waste collection provision
- The facility may open on a daily basis
- There may be an influx of non-pedestrian traffic, causing disturbance, obstruction and danger

Main Policies

16. Relevant Core Strategy policies: GSP1, GSP3, DS1, L1, L3, HC5
17. Relevant Local Plan policies: LC4, LC5, LE6, LT18
18. 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
19. 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.
20. National Planning Policy Framework
21. 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.
22. 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.'
23. Development Plan Policies.
24. 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.

25. 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.
26. Policy DS1 states that conversion for business uses in all settlements will be acceptable in principle.
27. Policy L1 identifies that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural Zone will not be permitted.
28. Policy L3 states that development must conserve and enhance any asset of archaeological, architectural, artistic or historic significance or its setting that has statutory designation or registration or is of other international, national, regional or local significance
29. Policy HC5 states that in towns and villages related activities such as professional services, and premises for the sale and consumption of food and drink, will be permitted provided that there is no harm to living conditions or to the role or character of the area, including its vitality and viability.
30. Policy LC4 states that development must not harm the character, appearance and amenity of the existing building, its setting or that of neighbouring properties.
31. 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.
32. Policy LE6 states that where development for employment purposes is acceptable in principle, it will only be permitted provided that every practicable means is used to minimise any adverse effects on the valued characteristics and amenity of the surrounding area.
33. Policy LT18 requires safe access provision and adequate parking arrangements.

Assessment

34. The original submitted plans were for the tea room to operate between 11:00 and 17:00 every Saturday, Sunday and Bank Holiday, and for outdoor seating for the facility to be provided across the site. Concerns were raised with regards to these plans due to the potential adverse impact on the amenity of neighbouring properties and the vitality of Eyam Village Centre. Discussion took place with the applicant, and the opening times proposed were amended to between 11:00 and 17:00 on Sundays only. It was also agreed to restrict the outdoor seating area to within the area of garden to the north of the site.
35. The amended application is for a development of the same description. It is proposed to regularise the use of the outbuilding to the north of the site as a tea room. No alterations are proposed to the exterior of the outbuilding, with the exception of a flue which has been installed to facilitate a wood burning stove. Internally, the building has

tables, chairs, ornaments and the aforementioned log burning stove. The facility has no running water, and the application states that the building would be used for seating and serving customers only. As such, the main dwelling would be required to provide kitchen and bathroom facilities.

36. An external seating area is proposed in the front garden, to the north of the site. This area is situated between Ivy Cottage and the outbuilding, and would be accessed from a front gate that leads from the access track. The plans indicate that 5 tables and 12 chairs would be provided in this garden area, and that clearance of areas of planting would be required to cater for this proposed development. Access to the tea room and the external seating area would continue to be via the track to the north of the site.

37. Principle

38. It is considered that the proposed amended plans are acceptable in principle. Policy DS1 states that conversion for business uses in all settlements will be acceptable in principle and Policy HC5 states that business activities will be permitted provided that there is no harm to the role or character of the area, including its vitality and viability. It is not considered that the restricted use of the outbuilding as a tea room between 11:00 and 17:00 on Sundays only would not have any adverse impact on Eyam village centre. The limited opening hours would ensure that the facility would not compete with established facilities in the village offering a similar service. It was considered that the opening hours originally proposed were excessive and would potentially have adversely affected the viability and vitality of Eyam village centre. The small dimensions of the outbuilding and the minimal level of outdoor seating would also limit the number of visitors that could be accommodated. As such, the character of Eyam village centre, including its vitality and viability would not be adversely affected by these plans.
39. It is considered that conditions should be imposed requiring this facility remains ancillary to the main dwelling, preventing it from becoming an independent unit, and for any consent to be for use as a tea room use only. This is because the creation of an independent unit would result in potential amenity issues, as would a restaurant or café use offering different services to what the applicant proposes. It is also considered necessary to impose a condition specifying the permitted opening hours, for clarity and the avoidance of doubt.

40. Character/Landscape

41. It is not considered that this proposal would result in any adverse impact on the character, appearance and amenity of the building, its setting, or the surrounding Conservation Area. The minor external alterations to the building would have no additional impact.
42. The proposed seating area would be well screened by the outbuilding and the main dwelling, and it is not considered that the siting of the small number of tables and chairs proposed would result in any adverse visual impact.

43. Amenity

44. It is considered that the proposed plans would result in noise and disturbance for neighbouring properties.
45. It is acknowledged that people visiting the tea room would need to make use of the access track which passes neighbouring properties. This intensification would result in an increased level of noise and disturbance, although the level of impact caused would be low, as a result of the heavily restricted opening hours and the limited capacity of

the facility, this must be considered as a factor in the cumulative impact of the development. It is not considered that the use of the outbuilding itself would result in any additional issues for neighbours, as this is an existing structure, and the disturbance of the use of the access would not in itself make the development unacceptable. There are no issues with overlooking, overshadowing or an overbearing impact from this building at present, and it is not considered that this would change as a result of it's use as a tea room.

46. The outbuilding is well separated from neighbouring properties, and as such there would be no significant issues with noise from visitors within this facility. However, the proposed external seating areas will result in some level of impact for neighbours. The proposed seating area is well screened visually from neighbouring properties by the outbuilding and the main dwelling however, this would not ameliorate the noise and disturbance which would occur. The proposed seating area would accommodate a maximum of 12 seated visitors according to the submitted plan, and a condition restricting outdoor seating to 5 tables and 12 chairs only within the front garden could be applied. However, 12 people exceeds the level of use you would normally expect to find in a residential garden in a residential area in a 6 hour period, and the impact that this would have on near residents is not considered to be acceptable. The cumulative impact of the outdoor seating and the use of the access is considered overall to have an unacceptable negative impact on the residential amenity of the locality. This is contrary to policy LC4 which seeks to protect residential amenity. The arising noise and disturbance would also alter the character of the Conservation Area and erode the residential character in a way which is not considered to be in accordance with policy LC5.

47. Other Matters

48. It is not considered that the nature of this development would result in any adverse impact in terms of highway, environmental or other matters. There have been no objections from the Highways Department or any other statutory consultees.

Conclusion

49. The use of the building as a tea room is considered to be acceptable, subject to conditions. However, the development overall with the outdoor seating would not conserve the character, appearance and amenity of the existing property, its setting, that of neighbouring properties, and the surrounding Conservation Area,. The level of impact for neighbouring properties would exceed the reasonable expectations of residential amenity in a residential area.

Human Rights

50. 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: Joe Freeguard, Planner