

12. FULL APPLICATION: S.73 APPLICATION FOR THE VARIATION OF CONDITION 3 FROM NP/DDD/0618/0562 TO OPEN ON MONDAYS AT IVY COTTAGE, DALE HEAD, LYDGATE, EYAM (NP/DDD/0224/0160, EF)

APPLICANT: MISS KATHLEEN HALL

Summary

1. Ivy Cottage is a detached cottage located at Dale Head, Lydgate, Eyam and within the Eyam Conservation Area.
2. Within the garden is a detached single storey rendered outbuilding with a pitched slate roof and timber windows and doors. The outbuilding is situated to the far north of the front garden area, and has been operating as a tea room on Sundays only between 11am and 5 pm since permission was granted in October 2018.
3. Access to the property is only on foot via a track to the north of the site. The track can be approached from Eyam Square north of the site, from Lydgate to the east of the site, and also via Eyam Dale to the south west of the site. The property is surrounded by neighbouring residential properties.
4. The application seeks to vary condition 3 which control the opening hours of the café to open an additional weekday on Mondays.
5. The proposal is not considered to give rise to any adverse impacts upon neighbouring amenity and the application is recommended for approval in accordance with conditions.

Proposal

6. The application proposed to vary condition 3 imposed upon planning permission NP/DDD/0618/0562 which granted use of the premises as a tea room ancillary to Ivy Cottage.
7. Condition 3 states:

The opening hours shall be between 11:00 and 17:00 on Sundays only.
8. The applicant wishes to open on a Monday as an additional day with the same opening hours.

Site and Surroundings

9. Ivy Cottage is located at Dale Head, Lydgate, Eyam. It is a detached cottage, situated within the Eyam Conservation Area at an elevated position above the village centre. The tea room operates on Sundays only from within a single storey stone outbuilding in the garden. The property is surrounded by other residential houses and their gardens.
10. A front garden is situated to the north of the site, with planted areas and paving.
11. The access to the property is via a track to the north of the site. The rear of the property cannot be accessed via a vehicle, and access to the tearoom is only on foot. The track can be approached from Eyam Square to the north of the site, Lydgate to the east of the site, and Eyam Dale to the south west of the site.

RECOMMENDATION:

That the application be **APPROVED** subject to the following conditions.

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted details as amended by the following amended plans: Floor Plan of the Outbuilding dated 26.07.2018, Amended Floorplan of the External Seating Area dated 25.09.2018 and subject to the following conditions and/or modifications;
2. The opening hours shall be between 11:00 and 17:00 on Sundays and Mondays only.
3. The use of the premises hereby permitted shall be for a tea room ancillary to the residential use of Ivy Cottage.
4. There shall be no outdoor seating other than in accordance with details (comprising a plan showing the location of no more than 6 seats and associated table(s)) which shall have first been submitted to and approved in writing by the National Park Authority.

Key Issues

1. The impact of the additional hours on neighbouring amenity.
2. Impact on amenity, character and setting of Eyam Conservation Area;
3. Any impact on the viability and vitality of Eyam;
4. Any highways impact.

History

12. 2018 - NP/DDD/0618/0552 – Approval of advertisement consent for 5 signs.
13. 2018 - NP/DDD/0618/0562 – Approval for use of the outbuilding as a tea room and to use the garden to serve teas and cakes.
14. 2023 - NP/DDD/0223/0138: Refusal of S.73 application under delegated powers for the removal or variation of condition 3 - opening hours/days to allow opening of the café on Saturdays and Sundays together with a further three weekdays.

Consultations

15. Highway Authority - No highways objections.
16. Eyam Parish Council - Objection based on:
 - Any extension to the opening hours of the business would have a significant and detrimental impact on neighbouring properties and their privacy.
 - The extension of business hours would add to the growing commercialisation of what is a residential area. An extension of business hours would lead to an increase
 - vehicles and parking. This part of Eyam is already busy and has limited parking.

Representations

17. The Authority has received 47 representations in support of the application raising the

following material planning considerations:

- a) Improved visual appearance of the lane;
- b) Improved vitality of the town centre;
- c) No loss of amenity for neighbouring property;
- d) Improved amenity for visitors on a Monday;
- e) Improved local community.

18. The Authority has received 18 representations in objection to the application raising the following material considerations:

- a) Over-commercialisation of a residential area
- b) Loss of amenity for neighbouring property
- c) Lack of parking facility
- d) Highways and pedestrian safety
- e) Potential for encroachment to further days/ intensification of use
- f) Noise
- g) Overlooking
- h) An existing lack of privacy on the opening days
- i) Loss of character
- j) The scale of the development
- k) Issues of viability
- l) Negative impact on the vitality of Eyam

Main Policies

Relevant Core Strategy policies: GSP1,GSP3,DS1 and HC5

Relevant Local Plan policies: DMC3, DMC5, DMC8, DMT3 and DMS1

National Planning Policy Framework

19. In the National Park the development plan comprises the East Midlands Regional Plan 2009, 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 with regard to the issues that are raised.'

20. Para 182. 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.

Core Strategy

21. GSP1 - *Securing national park purposes and sustainable development*. This policy sets out the broad principles for making decisions about sustainable development in the national park context.

GSP3 – Development Management Principles. 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.

- A. *impact on the character and setting of buildings*
- B. *scale of development appropriate to the character and appearance of the National Park*
- C. *siting, landscaping and building materials*
- D. *design in accordance with the National Park Authority Design Guide*
- E. *form and intensity of proposed use or activity*
- F. *impact on living conditions of communities*
- G. *impact on access and traffic levels*
- H. *use of sustainable modes of transport*
- I. *use of sustainable building techniques*
- J. *ground conditions including any land instability from former mining, quarrying or industrial uses*
- K. *adapting to and mitigating the impact of climate change, particularly in respect of carbon emissions, energy and water demand.*

22. DS1 – *Development strategy*. It names settlements following an analysis of their location, size and function, range of services and/or ease of access to services by public transport, and their capacity for new development.

23. HC5 - Shops, professional services and related activities

This policy 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.

Development Management Policies

24. DMC5: *Assessing the impact of development on designated and non-designated heritage assets and their settings*. Heritage assets include both designated and non-designated heritage assets. This policy states planning applications must consider the significance of any heritage asset. Including the extent of any harm to, or loss of, the significance, character and appearance of a heritage asset.

25. DMC8 - *Conservation areas*. Relevant for development affecting heritage assets (and specifically conservation areas). These policies require applications to be supported by heritage assessments and for development to be of a high standard of design that conserves the significance of heritage assets and their setting. We have an adopted conservation area appraisal for the area and this is a material consideration in the determination of the application.

26. DMT3: *Access and design criteria* & DMT8: *Residential off-street parking*. Policies DMT3 and DMT8 require safe access and adequate off-street parking.

27. DMS1 - Shops, professional services and related activities in Core Strategy policy DS1 settlements. Policy DMS1 notes that shops, professional services and premises for the sale and consumption of food and drink within settlements listed in Core Strategy policy DS1 will be encouraged provided that: (i) there are adequate facilities and access for the storage and disposal of goods, waste and delivery of stock.

Assessment

Principle of the Development

28. The principle of the tearoom is in accordance with policies DS1 and DMS1 which states in principle that shops and business should be encouraged in DS1 settlement areas provided they have adequate facility for goods and waste. The tearoom is within Eyam and has been operating as an ancillary business since 2018.
29. 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.

Impact upon amenity

30. The proposal is for a variation of the condition and proposes the tea room be allowed to open on Sunday and Mondays. The proposal would result in an additional day of potential noise and disturbance for neighbouring properties.
31. Visitors to the tea room need to make use of the access track which passes neighbouring properties. The extra days use would result in a modest increase in the potential level of noise and disturbance, although the level of impact caused would be low due to the restricted hours of service and small-scale nature of the business.
32. In this respect it is noted that the small dimensions of the outbuilding limit the number of customers to 10 seats only, and the existing level of outdoor seating at 3 small tables already limits the number of visitors that could be accommodated at any given time.
33. Furthermore, the hours of operation (to between 11am and 5pm) would on a typical weekday be within normal working hours where neighbouring properties would be less likely to be impacted.
34. The site is located close to neighbouring properties but it was considered at the time of approval that the proposed use subject to its limited scale would not give rise to any significant issues in terms of disturbance from customers. The Authority has not received any complaints about the permitted use since it was granted planning permission.
35. The issues raised by neighbouring properties are understood and with additional opening there is the potential for additional and more pre-longed impacts. However, the use would remain very limited in scale and impacts would therefore be limited. The proposal is therefore considered to be acceptable in terms of impacts upon amenity subject to planning conditions to control the use.

Highways Impacts

36. The Highway Authority have raised no objections to the proposal based on highway safety. The village has ample public parking and the tearoom offers no additional customer parking.
37. There is no evidence of the current use causing highway safety issues and with visitors

arriving on foot only the additional weekday with its restricted hours would be unlikely to cause any significant impact.

38. Concerns have been raised over the safety of existing footpaths within the village however this objection is not considered to be directly related to the ongoing operation of the tearoom. There is no evidence that customers using the footpaths to visit the site would cause safety issues.

Impact on Eyam village vitality.

39. Representations in objection, and representations in support, have been received on behalf of this application stating the impacts, both negative and positive, to the village as a result of this proposal.
40. The proposal for a further opening day on the Monday. It is not considered to have a negative impact other business operating within the village, particularly as many businesses are closed on this day. In any case competition between business is not a planning matter. The additional opening hours would be a modest enhancement to the vitality and viability of the village.

Heritage Issues

41. Objections have been raised over the additional opening day and the effect on the character and setting of the Eyam Conservation Area. The proposal is for additional opening hours and the setting of the site and the Conservation Area would not be materially affected by the proposal which could conserve the Conservation Area in accordance with policies DMC5 and DMC8.

Conclusion

42. It is concluded that the proposal would conserve the character and appearance of the locality and not give rise to unacceptable harm to neighbouring amenity, highway safety nor the vitality of Eyam village. Furthermore, the setting and significance of the Eyam Conservation Area would be conserved
43. The proposal is therefore considered to be in accordance with relevant policies and in the absence of any further material considerations the application is recommended for approval subject to conditions.

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

Report Author and Job Title

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