

**14. FULL APPLICATION – CHANGE OF USE OF LAND TO GARDEN AND SITING OF TIMBER GAZEBO, TIMBER CABIN, CAT PEN, SUMMERHOUSE AND LOG STORE AND ASSOCIATED WORKS. SITING OF HEN HOUSE ON AGRICULTURAL LAND AND ASSOCIATED WORKS AT 3 HURST WATERWORKS, DERBYSHIRE LEVEL, GLOSSOP (NP/HPK/1224/1334) HF**

**APPLICANT: JULIE FIDLER**

**Summary**

1. This application seeks planning permission for the change in use of land to residential garden and the siting of a number of outbuildings in connection with that use. The proposals seek to resolve an existing open enforcement case, and the plans have been subject to amendment and re-consultation following discussion with officers.
2. Whilst it is acknowledged that a number of the outbuilding structures are not traditional in appearance, due to the nature of the site and the position of the structures on the amended plans, the revised proposals are considered on balance to conserve the character and appearance of the site and the surrounding countryside and are considered to be acceptable in all other respects, subject to conditions.
3. The application is recommended for approval.

**Site and Surroundings**

4. The site concerned is land to the west of the converted Hurst Waterworks on Derbyshire Level. The plot of land is roughly rectangular and forms land between the side elevation of no 3 Hurst Waterworks and the boundary to Glossop Golf Club to the west. The site is in open countryside.
5. The extent of land subject to the proposed change of use and siting of buildings has been reduced as part of this application to include a smaller strip of land on the western edge of the rear garden to 3 Hurst Waterworks. The proposals also still include a small part of the far south western corner of the plot of land to the west of 3 Hurst Waterworks. The revised proposals have been subject to re-consultation.
6. The larger parcel of land is currently in use as residential garden with a number of buildings and structures sited on this land. That use is unauthorised and discussions between the applicant and enforcement officers have been ongoing since then. Therefore, notwithstanding that the submitted drawings identify the 'existing' site and elevations as being occupied by a number of buildings, officers have had regard to the previous condition of the site before those activities commenced.
7. The site was previously covered in vegetation with an uneven gradient and trees along the west boundary. It is a significant distance from the nearest named settlement (Policy DS1) and is around 340m from the edge of Glossop, beyond its eastern extent in an area detached from the main settlement by open land, partly used by the golf course.

**Proposals**

8. The application is for the extension of the residential curtilage of 3 Hurst Waterworks, and for the siting of a number of outbuildings and structures.
9. The application seeks to resolve an existing enforcement matter relating to the unauthorised change in use of land to residential garden and the siting of outbuildings and structures. The breach covers a large area.

10. As part of this application, a reduced scheme has been proposed which proposed use of a reduced area of land as garden, and which omits a number of the structures sited across the wider land. The amended siting and layout has been subject to re-consultation.
11. As amended, the proposal is for the extension of the rear residential garden to the west by approximately 68sqm, and for the siting of a summerhouse with log store, timber gazebo, cat pen and a timber cabin in the rear garden. A hen house is also proposed further west in the far corner of the application site area. The submitted plan confirms boundary treatment and landscaping details.

### **RECOMMENDATION:**

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

1. **Accordance with approved plans subject to conditions / modifications.**
2. **External finish of cabin to be provided prior to re-siting of cabin.**
3. **Cabin to remain ancillary to 3 Hurst Waterworks and within the same planning unit.**
4. **Hard and soft landscaping including boundary treatments to be implemented in first planting and seeding season following approval and thereafter to be permanently so maintained.**
5. **Condition to specify extent of residential curtilage of no 3 Hurst Waterworks.**
6. **Remediation strategy and timescale for implementation to be submitted and approved within specified timescale.**

### **Key Issues**

Impact of the development on the character and appearance of the area and on neighbouring residential amenity.

### **Relevant planning history**

12. NP/HPK/0916/0875: Proposed change of use Hurst Waterworks site to 3 no. affordable dwelling's – Refused 15<sup>th</sup> November 2016.
13. NP/HPK/0217/0140: Proposed change of use to 3 dwelling's – Approved 17<sup>th</sup> August 2017.
14. NP/HPK/1017/1118: Variation of Conditions 4, 6, 8, 9 & 11 and Removal of Conditions 7 & 10 of planning approval NP/HPK/0217/0140 – Approved 20<sup>th</sup> December 2017.
15. NP/HPK/0719/0732: Proposed new dwelling on brownfield land at the west Hurst Waterworks – Refused 13<sup>th</sup> September 2019. Appeal dismissed 4<sup>th</sup> March 2020.

### **Enforcement Matters**

16. 21/0117: Enforcement case opened December 2021 regarding unauthorised change in use of land to west of 3 Hurst Waterworks to domestic garden and siting of a number of unauthorised buildings / structures including timber gazebo, timber cabin, covered BBQ, cat pen, two hen houses, workshop and summerhouse / log store.

## **Consultations**

17. Charlesworth Parish Council: Status of NP/HPK/0522/0799 unclear. Objects to the application. If the application was on bare ground the Council would have objected on the grounds this is development in the countryside and inappropriate for its rural setting. The amenity of the site and of neighbouring properties is severely compromised by the spread of unrelated structures across the site. Concerns that residential use of bigger sheds can be contemplated and if the application was approved, a condition against such use must be included.

Response to amended plans: The Council noted that the applicant proposes to relocate most of the structures from the open garden land to the southeastern boundary, immediately alongside the adjacent house and garden. As before, the Council remains concerned about this application and objects. If the application was on bare ground the Council would have objected on the grounds that this is development in the countryside which is inappropriate to its open rural setting within the National Park. The development does not represent the 'special circumstances' under which proposals might be approved in a green belt. The amenity of the site and of neighbouring properties is severely compromised by the spread of unrelated structures across the site. This is particularly so given the relocation of the sheds to the boundary with the adjacent domestic property. The Council remains concerned that residential use for the bigger sheds can be contemplated (as indicated in the first application) and, if the application is approved, the Park must condition against this use.

18. Derbyshire County Council (Highways): No objection.
19. Environment Agency: No objection. Detailed advice provided regarding drainage hierarchy options in line with national planning practice guidance, and in respect of drainage solutions. The full response can be read on the application page.
20. High Peak Borough Council (Environmental Health): ADVICE TO LPA: Refusal of the application is recommended on the following grounds:

A phase 2 intrusive sit investigation and contamination assessment has been undertaken for this site under NP/HPK/0217/0140.

- Your Environment, ref: TE3303-01, dated 13th October 2017

This report covers the proposed development area and identifies elevated concentrations of PAH congeners associated with made ground. Identifies elevated concentrations of PAH congeners associated with made ground. To protect human health development should not occur on the site without an appropriate remediation strategy and remediation works taking place.

21. High Peak Borough Council (Planning): No response.

## **Representations**

22. None received.

## **Main Policies**

Relevant Core Strategy policies: GSP1, GSP2, GSP3, DS1, L1

Relevant Local Plan policies: DMC3, DMC5, DMC15, DMH8

### **National Planning Policy Framework (NPPF)**

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: to conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of National Parks by the public. When they carry out these purposes they also have the duty to; seek to foster the economic and social well-being of local communities in National Parks.
24. The NPPF is a material consideration and carries particular weight where a development plan is absent, silent or relevant policies are out of date. Paragraph 189 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
25. In the National Park, the development plan comprises the Authority's Core Strategy (2011) and the Development Management Policies (DMP) (2019). The development plan provides a clear starting point consistent with the National Park's statutory purposes for the determination of this application. In this case, it is considered there are no significant conflicts between prevailing policies in the development plan and the NPPF.

### **Relevant Development Plan Policies**

#### **Core Strategy**

26. GSP1, GSP2: These policies jointly seek to secure national park legal purposes and duties through the conversion and enhancement of the National Park's landscape and its natural and heritage assets.
27. GSP3: Requires that development respects, conserves and enhances the valued characteristics of sites and buildings with particular attention paid to impact on the character and setting of buildings, scale of development, siting, landscaping, building materials, design in accordance with the Authority's design guidance, form and intensity of proposed use, impact on living conditions, ground conditions and adapting to and mitigating the impact of climate change.
28. DS1: Sets the development strategy for the National Park. In the countryside development that is acceptable in principle includes extensions to buildings.
29. L1: Development must conserve and enhance valued landscape character, as identified in the Landscape Strategy and Action Plan, and other valued characteristics.

#### **Development Management Policies**

30. DMC3: Development that is acceptable in principle will be permitted provided its detailed treatment is a high quality and protects and where possible enhances the landscape, wildlife and cultural heritage that contribute to distinctive sense of place. Particular attention is paid to siting, scale, form, mass, levels, height and orientation, impact on landscape features, the degree to which buildings and their design, detail and materials reflect or complement the local style and traditions and other valued characteristics. The detailed design of existing buildings where ancillary buildings is proposed is also a consideration, as is landscaping. Regard is required towards amenity and privacy, the Authority's Landscape Strategy and the principles in the Authority's design guidance.

31. DMC5: Planning applications for development affecting a heritage asset including its setting must clearly demonstrate its significance and why the proposed development is desirable or necessary. Development of a non-designated heritage asset will not be permitted if it would result in any harm to the significance and appearance of a heritage asset unless the development is considered by the Authority to be acceptable following a balanced judgement that takes into account the asset's significance.
32. DMC15: Development on land that is known or suspected to be contaminated will be permitted provided that an accredited assessment shows there is no risk to public health arising from existing contamination, and remedial measures can remove any public health risk and make the site fit for its intended use without harm to the valued characteristics of the area. Necessary remedial measures must be agreed before development commences.
33. DMH8: New outbuildings will be permitted provided the scale, mass, form and design conserves and enhances the immediate dwelling and curtilage and any valued characteristics of the adjacent built environment and / or landscape. The use of building(s) will be restricted through conditions, where necessary.

## **Assessment**

### **Impact on Character of Area**

34. The application seeks change of use of land in open countryside to residential garden and the siting of number of buildings and structures on the land and within existing garden. The proposals relate to the existing dwelling no 3 Hurst Waterworks.
35. Policy DS1 allows for extensions to existing buildings, but does not include provision for extension of residential curtilage. The key principle issues are therefore considered to relate to impact on the character of buildings and landscape conservation as set out under GSP1, GSP2, GSP3, L1, DMC3 and DMC5.
36. Whilst located between 3 Hurst Waterworks and the golf course to the west, the site lies within a loose cluster of development, and is part of the open countryside within the Dark Peak Western Fringe local character area / Valley Pastures with Industry landscape character type (LCT).
37. As part of the 2020 Appeal Decision (prior to the start of unauthorised works on site) the Inspector described the site area as low density with a predominantly open verdant character, defining it as a distinct and detached area from the main settlement, with the land appearing as substantially free from built development comprising rough vegetation and a verdant open character fitting with the rural location.
38. The application as originally submitted proposed the residential use of approximately 1,340sqm of land, an area which substantially exceeds that of the existing residential plot of no 3 (circa 325sqm). The application proposed to site multiple structures across that land including gazebo, timber cabin, covered BBQ structure, workshop, cat pen and hen house. A summerhouse with log store was also proposed in the existing garden.
39. Officers raised concerns with the proposed development, which were shared by the Parish Council, due to the development's impact on the character and appearance of the site and countryside, and due to the design of a number of the proposed structures.
40. Following discussions, amended plans have been received.

41. The application now proposes to extend the existing garden by approximately 68sqm. The unauthorised covered BBQ, workshop structure and smaller hen house are omitted. The cat pen and cabin are relocated into the existing rear garden. A fenced boundary with hedging is proposed to enclose the west boundary of the extended garden area.
42. The larger hen house is retained in the far south west corner of the site and although detached from the dwelling, would be contained by fencing and hedging and therefore of minimal impact.
43. Considering impact on the character and appearance of Hurst Waterworks, which was previously identified by the Authority as a non-designated heritage asset, it is acknowledged the building has some significance as a good example of water related industrial heritage of the area.
44. It is recognised the building still offers some value in link to its past use as part of the water related industrial heritage. Nevertheless, following conversion and alterations to the site, the evidential and architectural interest in the building in particular is considered to have reduced, with few of the building's more industrial features such as windows remaining. The building has now obtained a more domestic character. There are domestic sheds and outbuildings in the rear gardens of nos 1 and 2 Hurst Waterworks and it would be considered unreasonable to restrict similar structures at no 3 entirely.
45. It is considered there is sufficient information available based on this application, a visit of site and information available under previous applications to understand the significance of the building and impact of the proposals on Hurst Waterworks and officers do not consider there to be unacceptable impacts or conflict with DMC5 in this respect.
46. Given the changes to the building and other domestic structures in rear gardens, it is not considered the amended scheme would unacceptably harm the building's significance.
47. The concerns of the Parish Council on the revised proposals are noted, and it is accepted there would be some change to the original character of the site (prior to unauthorised works) due to extension of the garden and visibility of the gazebo, hen house and some glimpsed views of the rear garden structures.
48. However, the area of extended rear garden is well associated with the scale and form of the existing garden, and the gazebo structure with evergreen holly planting to the front, and further hedging on the west boundary would result in all buildings / structures and the general extent of residential curtilage being well contained and / or screened. The rear of the garden is well screened by existing hedging that will continue to grow, and there are in any case no public rights of way immediately to the south.
49. The hen house to the western corner, although separate from the main garden, is tucked away in the far site corner and would be screened by evergreen holly and existing boundary treatment and landscaping to the south and west, particularly when considering the height of the hen house against the height of the boundary and landscaping.
50. Whilst there would be some change to the site character, officers consider this would not result in an unacceptable impact on the character of the locality or landscape.
51. The cat pen, summerhouse or gazebo are fairly typical of what would be expected in a residential garden and their form and siting is acceptable.
52. The remaining concern is in respect of the large timber cabin which is acknowledged to be of substantial scale and is not in keeping with the built traditions of the area. Officers

initially requested the cabin was omitted; however the applicant has strong personal connections with the cabin and wishes for it to be retained.

53. The cabin is proposed to be relocated to the rear of the existing garden. From outside the site, views of the cabin will be limited to the top section visible over boundary fencing and plants, and views from the highway to the north will be partly restricted by the gazebo, boundary planting, the main dwelling and the intervening angle. There are limited public vantages to the south. Views from the neighbouring garden will be limited to the top most section of the cabin as the fence height will obscure the lower part, and some views of the elevation facing the dwelling from their dwelling, although the structure would be viewed within a garden setting.
54. The drawings confirm the cabin will be finished in green, which would be considered to reduce the dominance of the building. Some minor re-levelling to accommodate the cabin means that the cabin would not be at a raised height at the rear of the garden.
55. Whilst it is appreciated the proposed cabin in particular is not of a form that is reflective of the local building tradition and is large in scale, as a result of the re-located siting and reduced visibility from locations in the wider landscape, on balance it is not considered that harm arises to a degree such that there would be conflict with Policies GSP1, GSP2, GSP3, L1, DMC3 or DMH8 sufficient to warrant a refusal, subject to conditions.

#### Residential Amenity

56. The Parish Council objection raises concerns regarding the impact of the development and structures close to the neighbouring boundary on amenity. No response has been received from the adjoining dwelling, no 2 Hurst Waterworks, separated by a fence.
57. The summerhouse siting is in line with a structure in the garden of no 2 which diffuses its impact, which is considered to be acceptable. Whilst the height of the cat pen may rise slightly above that of the fence, the pen is of such a scale that it would not be considered overbearing or harmful in other amenity respects. Its use as a cat pen is not considered to be harmful from any amenity perspective.
58. The timber cabin is considered to have the potential to harm neighbouring amenity by being overbearing, due to its large scale and proximity to the shared boundary. However, the boundary fence between no 2 and 3 rises to the south, whereas the cabin would need to be kept level with its elevation facing the dwelling, such that only the upper parts of the cabin would rise above the fence, rather than the entire structure, and less so further to the south. This is considered to reduce the impact on the neighbour by reducing the impression of scale. Whilst the relationship is close, it is considered on balance given the site context, levels and treatment of the cabin, that the impact would on balance be to an acceptable degree.
59. It is necessary to condition that the external finish of the cabin will be carried out prior to its location on the site, in the interests of character, appearance and impact.
60. Whilst there is a window on the elevation of the cabin facing the dwelling, its position angled north east rather than directly east towards no 2, is such that it is not considered the feature would result in unacceptable overlooking or privacy impact.
61. Officers do acknowledge there is potential for harm to neighbouring residential amenity due to the siting of a large outbuilding close to the shared boundary. It is however felt there are further measures of mitigation which could be adopted to lessen the impact of the cabin on the neighbouring property such that provided those measures are secured

by condition, the impact on neighbouring amenity would be acceptable on balance and therefore in accordance with Policies GSP3, DMC3 and DMH8.

62. Environmental Health have raised an objection regarding the use of the extended garden area due to the previously identified presence of ground contamination across the site. Their response requests provision of details of remediation of the site. This has been discussed with the Environmental Health officer and it is considered that an appropriate condition and timeframe requiring this work to be carried out would be acceptable in order to address the concern raised, and to accord with Policy DMC15.

### **Other Matters**

63. The Parish Council response states that should development be approved, a condition to prevent the use of the cabin for residential purposes should be considered due to its size and scope for such use. Officers do not consider that a use incidental to the existing property would be harmful given the context and relationship with the neighbour as outlined above, however agree a condition to control the cabin from being occupied independently of no 3 is necessary given the close relationship to the dwelling.
64. The Parish Council references the requirement for very special circumstances where development occurs in the Green Belt. For clarity, the application site is within the National Park and there is no Green Belt designation.
65. As a retrospective application, the development is exempt from biodiversity net gains.
66. The Highways Authority have not raised an objection. The Environment Agency response similarly raises no objection, but provides general advice in respect of drainage.

### **Conclusion**

67. Whilst the proposed development includes components which are not wholly in accordance with the Authority's design guidance and the traditional built character of the National Park, the impact of the development on balance is not considered to unacceptably harm the locality, having regard to the revised siting of the proposed development, local character and the overall impact of the development on the area.
68. The proposals have also been found to be acceptable on balance with regard to residential amenity, and in all other respects.
69. The application is therefore recommended for approval.

### **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**

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