The Planning Inspectorate

Appeal Decision

Site visit made on 31 July 2012

by Ahsan U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 September 2012

Appeal Ref: APP/H1033/A/12/2174604
Land opposite 3 Brierley Green, Buxworth, High Peak, Derbyshire SK23 7NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ms Yasmin Beesley against the decision of High Peak Borough Council.
- The application Ref HPK/2011/0413, dated 28 July 2011, was refused by notice dated 6 January 2012.
- The development proposed is described in the application as *'retention of use of land as grazing land and erection of stables'*.

Decision

1. The appeal is allowed and planning permission is granted for the retrospective change of use of the land for the keeping of horses, grazing purposes and the erection of stables opposite 3 Brierley Green, Buxworth, High Peak, Derbyshire SK23 7NL in accordance with the terms of the application, Ref HPK/2011/0413, dated 28 July 2011, and the plans submitted with it, subject to the following conditions:

    1) The development hereby permitted shall not be used for any commercial or business purpose including full, part or DIY livery.

    2) The use hereby permitted shall cease and the stables demolished to ground level and all equipment and materials brought onto the land for the purposes of such use, and the materials resulting from the demolition of the stable block, shall be removed within 2 months of the date of failure to meet any one of the requirements set out in (i) to (iv) below:-

        i) Notwithstanding the drawings submitted with the planning application, within 3 months of the date of this decision a site layout plan showing storage areas, proposed landscaping and the layout of parking and turning spaces within the site shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation

        ii) within 11 months of the date of this decision, if the local planning authority refuse to approve the details and scheme or fail to give a decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State

        iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted details and scheme shall have been approved by the Secretary of State.

iv) the approved storage, parking and turning details and the landscaping scheme shall have been carried out and completed in accordance with the approved timetable.

3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the approval of the details pursuant to condition 2 above, and any trees or plants which within a period of 5 years from the implementation of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Procedural Matters

2. The description of the development set out in the planning application form refers to the word 'retention'. However, retention is not an act of development as set out in Section 55 (1) of the Town and Country Planning Act 1990 as amended. In addition, the use of the land for the purposes of *'grazing'* livestock does not amount to development by virtue of S 55 (2) (e). The written representations indicate that the land is mainly used for the keeping of horses for recreational purposes. I shall evaluate the appeal in the following terms: *'retrospective change of use of the land for the keeping of horses, grazing purposes and the erection of stables'*. This description of the development does not fundamentally alter its nature.

3. The Council refused planning permission on the basis that the development would detract from the character and appearance of the surrounding countryside. Their statement of case states that part of the southern site is within the designated North West Derbyshire Green Belt. The refusal reason makes no reference to this, and in the representations, it has not been pursued. I will assess the planning merits of this appeal on this basis.

Main Issue

4. The impact of the development upon the character and appearance of the surrounding countryside.

Reasons

5. The site is a narrow strip of land, enclosed by timber post and wire fencing, and is situated between the Manchester – Sheffield railway line and the adjacent highway. To its north is the built-up edge of Buxworth. At the time of my site visit, it appeared to me that the land was used for the keeping of horses which is small in scale because of the site's size and shape.

6. The site comprised a large wooded area, which has since been removed, and the Council argues that the development gives this part of the countryside a tidy, orderly and neat appearance. However, the use of the land for the purposes of keeping horses on is usually found in rural locations due to the nature of the activities. The development has resulted in the creation of a large visual gap between the railway line and the adjacent roadway, but the existing dense foliage provides a reasonable degree of screening to the site from the highway. I consider that additional landscaping would further reduce the visual impact of the development upon passers-by and the wider locality.

7. The development does not visually affect the open character of the surrounding countryside, because of the site's location and positioning. Given time, the use of the land for the keeping of horses is likely to assimilate into the countryside, due to the limited scale of the equine-related activities. The Council and the local highway authority's concerns about an intensified commercial use can be controlled by the imposition of a suitably worded condition, which I will turn to later.

8. Along the north-western boundary stables have been erected with some concrete flagged hardstandings to the front. The stables are mainly built from shiplap timber and a mono-pitch corrugated roof. The structure contains two separate units. I am satisfied that the overall design and scale of the stable block does not give rise to a sense of domesticity on this particular site, because of the nature of the development. I find that the nature and type of the development does not materially conflict with guidance contained in the Council's Supplementary Planning Document SPD5 titled: *'Landscape Character'* (2006).

9. Accordingly, the proposal complies with Policies OC1, OC4 and LT5 of the High Peak Saved Policies (2008) taken from the High Peak Local Plan 2005. Amongst other matters, these Policies seek to ensure that development does not detract from the character and distinctiveness of the countryside, and that the design is appropriate to the character of the landscape. Furthermore, the development does not significantly conflict with guidance contained in the National Planning Policy Framework in particular section 11 – *conserving and enhancing the natural environment*.

10. The Council's suggested conditions have been evaluated in the light of guidance contained in Circular 11/95: *'The use of conditions in planning permissions'*. To further reduce the visual impact of the development upon the locality, additional landscaping is necessary. The submitted details indicate the location of the stable block and the storage of logs. For the avoidance of doubt, it would be reasonable to require the submission of a site layout plan showing details of outdoor storage areas, a proposed landscaping scheme and the location and layout of parking and turning spaces. The condition needs to be consistent with the retrospective nature of the development. Given the positioning of the site, any commercial use would potentially create other development control issues, and so it is reasonable to impose a condition restricting such activities.

11. The Council suggests that a condition be imposed limiting the number of horses on the land. However, that would be unreasonable because such matters are subject to other animal welfare standards.

12. For all of the above reasons, and having considered all other matters, I conclude that the development does not materially have a detrimental impact upon the character and appearance of the surrounding countryside. The appeal should succeed subject to the conditions set out above.

Ahsan U Ghafoor

INSPECTOR