The Planning Inspectorate

Appeal Decisions

Site visit made on 17 December 2012

by Martin Whitehead LLB BSc(Hons) CEng MICE

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

Decision date: 4 January 2013

Appeal A: APP/H1033/A/12/2178564
Bowden Hey Mill, Bowden Lane, Chapel-en-le-Frith, Derbyshire SK23 0JQ

- 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 Kelsa Truck Products Ltd against the decision of High Peak Borough Council.
- The application Ref HPK/2011/0504, dated 13 July 2011, was refused by notice dated 18 January 2012.
- The development proposed is conversion of a historic mill building to 6 residential units with associated parking, access and landscaping; facilitated by the demolition of adjacent subsidiary building and modern link.

Appeal B: APP/H1033/E/12/2178572
Bowden Hey Mill, Bowden Lane, Chapel-en-le-Frith, Derbyshire SK23 0JQ

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Kelsa Truck Products Ltd against the decision of High Peak Borough Council.
- The application Ref HPK/2011/0652, dated 13 July 2011, was refused by notice dated 18 January 2012.
- The demolition proposed is of adjacent subsidiary building and modern link.

Decisions

1. Appeal A is allowed and planning permission is granted for conversion of a historic mill building to 6 residential units with associated parking, access and landscaping; facilitated by the demolition of adjacent subsidiary building and modern link at Bowden Hey Mill, Bowden Lane, Chapel-en-le-Frith, Derbyshire SK23 0JQ in accordance with the terms of the application, Ref HPK/2011/0504, dated 13 July 2011, subject to the conditions in the attached schedule.

2. Appeal B is allowed and conservation area consent granted for demolition of adjacent subsidiary building and modern link at Bowden Hey Mill, Bowden Lane, Chapel-en-le-Frith, Derbyshire SK23 0JQ in accordance with the terms of the application Ref HPK/2011/0652, dated 13 July 2011 and the plans submitted subject to the following conditions:

    1) The works of demolition hereby authorised shall begin not later than three years from the date of this decision.

    2) The works of demolition hereby authorised shall not be carried out before a contract for the carrying out of the works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides.

Main Issues

3. The main issue in Appeal B and one of the main issues in Appeal A is whether the proposed demolition of the buildings would preserve or enhance the character or appearance of Chapel-en-le-Frith Town End Conservation Area. An additional main issue in Appeal A is the effect of the proposal on the provision of employment land in the Borough.

Reasons

Conservation Area- Appeals A and B

4. The appeal site is located within, but on the edge of, Chapel-en-le-Frith Town End Conservation Area (CA). Much of the site is occupied by historic buildings that were previously part of Bowden Hey Wadding Mill. The buildings consist of a main 2 storey building (Block A), to the south east of the site, which has been joined to a lower stone building (Block B) by a more modern structure constructed in artificial stone (Block C). The Council's Conservation Officer and Derbyshire County Council's Archaeology Officer have commented on the importance of the buildings to the character of the CA, particularly with regard to how they reflect the piecemeal development of the site. However, they have not referred to any CA Character Appraisal to support their views.

5. The appellant has submitted a Statement of Significance by Andrew Whitham, Historic Buildings Advisor. It indicates that the buildings are unlisted and in a very fragmentary, incomplete state, having been significantly changed in the twentieth century. Also, consent has recently been granted under a previous planning permission for the demolition of one of the oldest elements of the former Mill buildings that is attached to Block A.

6. At my site visit, I observed that the buildings are not very prominent features within the CA. They are located on relatively low lying ground adjacent to Black Brook and on the opposite side of Bowden Lane to a variety of designs and ages of dwellings, some of which are also within the CA. Whilst the site has a commercial character, these nearby dwellings give the surrounding area a mixed character. The main views of the buildings are looking north along Bowden Lane, from where Block A is clearly visible, and looking east along the banks of Black Brook from outside the CA. Both these are from residential areas. As such, the site relates to a generally residential street scene.

7. Block B has been unsympathetically repaired and altered with a large expanse of patched roof visible from Black Brook. Also, Block C gives a negative impression of the site by joining buildings together and hiding much of the fabric of the historic Block A. As such, I find that Block C does not make a positive contribution to the character or appearance of the CA and that the proposed removal of it, and Block B, would enhance the appearance of the site by exposing Block A and enabling it to be sensitively refurbished. Based on the evidence provided, I do not accept the significance given to Block B, as any contribution that it makes to the historic development of the site is outweighed by the benefits to the character and appearance of the CA that would be gained by the proposed exposure and refurbishment of Block A.

8. Taking the above into account, I conclude on this main issue that the proposed demolition of the buildings would preserve the character and appearance of Chapel-en-le-Frith Town End Conservation Area. As such, it would accord with

Section 12 of the National Planning Policy Framework (Framework); and High Peak Local Plan (HPLP) Policy BC5.

Employment Land- Appeal A

9. The appeal site forms part of a wider site that is in use by Kelsa Truck Products Ltd. Planning permission has recently been granted for improvements to the premises on the remainder of the site, and the appellant has indicated that the current use of the appeal site would be relocated to the new buildings. The Council has suggested that the site is within a primary employment zone.

10. At my site visit, I observed that the buildings on the appeal site are used for office space, storage and working on trucks. However, they are not fully utilised and are of a poor quality. Also, the main access to the appeal site is across a narrow bridge that is unsuitable for heavy goods vehicles, and there is limited space for parking and manoeuvring vehicles within the area of the site. As such, the appeal buildings would be severely restricted in the employment opportunities that they could offer without the remainder of the site.

11. HPLP Policy EMP9 establishes a presumption in favour of retaining employment land other than in exceptional circumstances. With regard to these exceptions, I am satisfied that the proposed residential use would be limited in scale and subordinate to the employment use of the remainder of the site.

12. Although the appellant company has not shown that the appeal site has been marketed for employment use, it has provided an Office Market Overview for Chapel-en-le-Frith. The Market Overview includes a financial appraisal that shows that the conversion to offices is not financially viable, and it concludes that there is no historic evidence of either a demand or the supply of office stock in Chapel-en-le-Frith. The Council has referred to its Employment Land Review 2008 which gives a favourable assessment of the site for employment, but it has not been updated and pre-dates the policies in the Framework.

13. Paragraph 22 of the Framework suggests that, where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits, having regard to market signals and the relative need for different land uses to support sustainable communities. In this respect, the evidence indicates to me that the appeal site would not have a reasonable prospect of being used for an employment use should the appellant move its operations to the permitted development. Also, the Council has not disputed the appellant's claim that there is a need for housing in Chapel-en-le-Frith, based on a shortfall in the delivery of housing and the Annual Monitoring Report showing only a 2.4 year housing supply.

14. Taking account of the above, I find that the proposal would make efficient use of part of an employment site to provide a mixed use development of the whole site that would be compatible with the adjacent housing. The appellant has demonstrated that the continued employment use of the appeal site would not be viable and that the proposal would be sustainable and would help meet an identified need for new housing in Chapel-en-le-Frith. As such, I conclude on this main issue that the proposal would not have a significant harmful effect on the provision of employment land in the Borough. It would also accord with paragraph 22 of the Framework and HPLP Policy EMP9 as one of the exceptions to the retention of employment land.

Other Matters

15. I have considered the concerns expressed by local residents and the Parish Council. However, I am satisfied that the proposal would provide an adequate level of car parking and access for the proposed 6 dwellings, given that the Highway Authority has not objected subject to conditions. Also, I have been given insufficient evidence to show that there is not a need for new housing in Chapel-en-le-Frith, and the proposal should be beneficial to wildlife, as it would preserve most of the nearby trees and result in an improvement to the environment.

Overall Conclusions- Appeals A and B

16. For the reasons given above, I have found that the proposed demolition of the buildings would preserve the character and appearance of Chapel-en-le-Frith Town End Conservation Area and the Appeal A proposal would not have an adverse effect on the provision of employment land in the Borough. As such, I am satisfied that the proposal would represent sustainable development in accordance with the Framework. Therefore, having regard to all matters raised, I conclude that both Appeal A and Appeal B should succeed.

Conditions- Appeals A and B

17. With regard to Appeal A, I have considered the 11 conditions suggested by the Council should I allow the appeal. I have included a condition regarding the standard time for commencement of development and a condition to ensure compliance with the plans for the avoidance of doubt and in the interests of proper planning. A condition to ensure that contamination of the site is identified and dealt with is necessary for health and safety reasons, as recommended in the Phase 1 Desk Study Report by Sub Soil Surveys Limited.

18. A condition to enable an archaeological survey to be carried out is necessary in the interests of the heritage of the area, given the history of the site. Conditions regarding landscaping and materials are necessary to ensure that the development would preserve the character and appearance of the conservation area. Conditions to safeguard the access, highway improvements and parking are necessary in the interests of highway safety and convenience. A condition regarding finished floor levels is necessary to reduce the risks from flooding, given the relative location of the site within Flood Zone 2.

19. In terms of Appeal B, I have included a condition limiting the time for commencement of demolition. A condition requiring the demolition not to take place until a contract for carrying out the redevelopment works is in place is necessary in order to prevent harm to the character and appearance of the conservation area.

20. I am satisfied that all the above conditions are reasonable and necessary. I have combined some of the suggested conditions and worded them to accord with the advice given in Circular 11/95: *The Use of Conditions in Planning Permissions*.

M J Whitehead

INSPECTOR

SCHEDULE OF CONDITIONS- APPEAL A

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos PM4146/S001, MM2104B-001, MM2104B-002, MM2104B-003, MM2104B-004, MM2104B-005, MM2104B-006, MM2104B-007, MM2104B-008, MM2104B-009, MM2104B-010, MM2104B-011, MM2104B-012 and MM2104B-013.

3) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed, together with an implementation programme. The measures approved in the scheme shall be implemented in accordance with the agreed programme.

4) No development shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

5) No development shall take place until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall include the means of enclosure; car parking layouts and surfaces; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg refuse or other storage units, signs, lighting); retained historic landscape features and proposals for restoration. The works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing by the local planning authority.

6) No development shall take place until details of all windows, including rooflights, at 1:20 scale have been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

7) Prior to the commencement of any other development a new vehicular and pedestrian access shall be constructed to Bowden Lane in accordance with Drawing No MM2104B-009 with visibility splays measuring 2.4 metres x 18 metres in each direction. No structure or erection exceeding 1 metre in height or vegetation exceeding 0.6 metres in height relative to the adjoining nearside carriageway channel level shall be placed or allowed to grow within the visibility splays.

8) No dwelling hereby permitted shall be occupied until an extension to Bowden Lane and new footways within the site and public highway have been designed and laid out in accordance with Derbyshire County Council's adoptable criteria and constructed to adoptable standards in accordance with details that shall be submitted to and agreed in writing by the local planning authority.

9) No dwelling hereby permitted shall be occupied until space has been laid out within the site in accordance with Drawing No MM2104B-009 for 12 cars to be

parked and for vehicles to turn so that they may enter and leave the site in forward gear. This space shall be retained for the parking and turning of vehicles thereafter.

10) No development shall take place until a scheme to ensure that finished floor levels are set no lower than 210.495 metres above Ordnance Datum (AOD) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.