The Planning Inspectorate

Appeal Decision

Site visit made on 12 April 2013

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 8 May 2013

Appeal Ref: APP/H1033/A/12/2186796
E W Bowers (Coaches) Ltd, Aspincroft Garage, Town End, Chapel-en-le-Frith SK23 0NU

- 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 Centrebus Ltd against the decision of High Peak Borough Council.
- The application Ref HPK/2012/0426, dated 19 July 2012, was refused by notice dated 29 October 2012.
- The development proposed is conversion and extension of two existing stone buildings into dwellings and the demolition of an existing garage and erection of a new dwelling.

Procedural Matters

1. The list of plans was confirmed at the site visit to reflect amendments to the appearance of the proposed dwelling on Plot 3 that had been agreed with the Council, to resolve its objection as expressed in the second reason for refusal given on its decision notice but not addressed in its statement.

2. The Council's representative confirmed that the implication of the omission of reference to the second reason for refusal in its statement, that the Council no longer wished to pursue that reason, was indeed correct. Having reviewed the documentation and in view of the limited nature of the amendments I am satisfied that there would be no material prejudice to any party as a consequence of the agreed amendments. For accuracy, however, it is necessary for the purposes of the appeal decision for me to amend the description of the development so as to omit the term "1.5 storey".

Decision

3. The appeal is allowed and planning permission is granted for conversion and extension of two existing stone buildings into dwellings and the demolition of an existing garage and erection of a new dwelling at E W Bowers (Coaches) Ltd, Aspincroft Garage, Town End, Chapel-en-le-Frith SK23 0NU in accordance with the terms of the application, Ref HPK/2012/0426, dated 19 July 2012, subject to the conditions set out in the Annex hereto:

Main Issue

4. The main issue is whether the living conditions of occupiers of the dwelling proposed on Plot 3 would be acceptable having regard to their privacy and the potential for noise from the adjacent motor repair garage.

Reasons

5. The appeal site is a small redundant coach depot in the Town End Conservation Area. This includes a variety of residential and commercial uses in tightly packed plots along the main thoroughfares, reflecting the historic growth and evolution of the town. Consequently, small houses and other uses are intermingled in close juxtaposition.

6. The site itself contains two stone buildings proposed for conversion and a third, largely prefabricated, building of no architectural merit or significant historic interest located adjacent to the rear of the motor repair garage which faces onto Hayfield Road. Conservation area consent has, I understand, already been granted for its demolition.

7. In terms of its character and appearance, the proposed scheme, by making use of and supplementing the existing stone buildings, which are a little neglected but basically sound, would considerably enhance the conservation area; and the style of dwellings proposed, tightly packed and informally laid out amongst neighbouring properties, would be entirely appropriate to the context. It is now, in my view, a meritorious scheme.

8. The remaining difficulties as far as the Council is concerned emanate from the proximity of the front elevation of Aspincroft Cottage to the single storey side elevation of the L-shaped dwelling proposed on Plot 3, as this would contain a dining kitchen with patio doors and two windows, and the adjacency of the motor repair garage, as this has, for historic reasons, an unrestricted B2 Use Class authorisation.

9. Saved policy GD5 of the High Peak Local Plan is concerned with amenity and, amongst other things, aims to resist unacceptable loss of privacy as a result of overlooking and harm to living conditions as a result of noise pollution. These aims are consistent with one of the core planning principles of the National Planning Policy Framework ('the Framework') and may therefore be accorded due weight.

10. The concept of residential amenity is susceptible to the influence of context and in a case such as this, where housing is located cheek-by-jowl with other uses in a town centre conservation area, and has traditionally been developed in that way, it necessarily involves compromises. As a general principle, the advantages and pleasures of living in a town centre conservation area have to be consciously balanced against the lesser standard of amenity, in terms of quietude and privacy, than might reasonably be expected, for example, in a more suburban environment. The key consideration is whether such compromises lead to a loss of amenity that is decisively unacceptable notwithstanding the context within which the development takes place.

11. Aspincroft Cottage has first floor windows that currently overlook the depot yard and the side of the building consented for demolition, albeit the existing boundary wall to the yard would remain and a 1.8 metre close boarded fence would replace the side of the demolished building along the common boundary. These arrangements would ensure comparable ground level privacy in the garden of Plot 3 to that currently enjoyed by occupiers of Aspincroft cottage, but the first floor windows would have the potential to overlook the facing ground floor windows and to some extent the garden, albeit I have no doubt that a modicum of judicious planting and garden design could mitigate that

potential quite effectively without unduly harming the amenity of Aspincroft Cottage, which currently faces at close quarters a bulky and unsightly building. Moreover, the ground floor accommodation affected at Plot No 3 is a kitchen/dining area rather than a sitting room and the position and angle of the facing upper floor windows of Aspincroft Cottage, relative to this particular habitable room at Plot No 3, are such that the direct line of sight from them would be offset.

12. All these circumstances combine in my estimation to bring the standard of privacy that could be enjoyed by occupiers of Plot 3 within the bounds of acceptability for its context, notwithstanding its proximity to Aspincroft Cottage. Therefore there would be no unacceptably harmful conflict with the intentions of the development plan or the Framework in respect of privacy.

13. Insofar as the motor repair garage is an established B2 use adjacent to the site it is perhaps a more intractable problem. I note that the declared hours of opening are currently within the normal range of expectation for such a use 6 days per week, but that is a matter of choice for the business. I listened to the activity taking place and, with the use of compressed air for tightening wheel nuts and other applications of mechanical equipment, there is discernible break out of noise that would be experienced in the gardens of all the proposed houses on the appeal site, as it must also be experienced in the gardens of adjacent houses on Hayfield Road, and to some extent in those of Aspincroft Cottage and other properties in the immediate vicinity.

14. As far as Plot 3 is concerned, the mass of the proposed single storey accommodation would to a degree shield those parts of the garden area closest in to the main bulk of the proposed dwelling; and its walls would significantly reduce the perception of noise breaking out from the rear elevation of the garage in its interior, including within the proposed second and third bedrooms. Should the existing enterprise (which has raised no objection to the proposed development), or an alternative occupier, choose to operate during unsocial hours the problem would be common not only to Plot No 3 and the other two plots proposed on the appeal site but also to the existing surrounding dwellings that have historically co-existed with the established use of the garage building. In that circumstance, other legislation outside of the planning system would no doubt be deployed if the resultant noise and disturbance proved to be a demonstrable nuisance.

15. The proposed development would add three households to the range of properties round about that would potentially be affected but in all the circumstances and the context as I have described it, and taking into account the notable advantages of the proposed development, I consider the potential but, in my estimation, limited conflict with the intentions of the development plan and the Framework in respect of amenity to be outweighed. Further weight to the balance of planning advantage in favour of the proposed scheme might be considered to accrue from the potential of the depot site to be used in the alternative for less neighbourly uses than housing, although I have been presented with no specific evidence as to the range of activity that could occur.

16. All in all, given the circumstances and scenarios I have described, I do not consider, in this instance, the existence of the planning unit currently accommodating the motor repair garage to be sufficient reason in itself to withhold planning permission for the proposed development at issue.

17. The Council suggests a number of planning conditions (SC). Subject to amendment to better accord with the intentions of Circular 11/95 *The Use of Conditions in Planning Permissions* and for economy, all are necessary and appropriate. A condition specifying the approved plans would be necessary for the avoidance of doubt and in the interests of proper planning.

18. SC1-SC4 respectively address commencement, materials, architectural detailing and boundary treatment. SC5 and SC13-SC15 all concern the construction process and in the circumstances of this site the matters addressed are better approached through the imposition of a standard form of condition requiring the approval of a construction method statement. SC6-SC8 concern the relationship of the site to the adjacent highway and the need to ensure the availability of on-site parking from the outset. They are necessary largely in the form suggested. SC9-SC12 concern the potential of the site to be contaminated by its former uses and, whilst necessary in principle, are better expressed in a simplified and combined form to achieve the same end. In addition, I consider a condition requiring approval of the foul and surface water drainage arrangements as, in effect, suggested by United Utilities, would be required. However, having studied all the survey material supporting the application and having inspected the buildings, I am satisfied that no specific conditions would be required in respect of protected species and any nesting birds would be protected in a proportionate fashion by other legislation in any event.

19. I have considered all other matters raised but none are sufficient to alter the overall balance of my conclusion that, for the reasons I have given, the appeal should be allowed.

Keith Manning

Inspector

Annex: Schedule of Conditions

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: Location Plan (X001A); PL007B; PL008B, PL001A; PL002A; PL003; PL004A; PL005A; and PL006A.

3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building and extensions to existing buildings hereby permitted, together with details of how the external surfaces of the buildings to be retained are to be pointed or otherwise treated, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) No development shall take place until details of windows including glazing bars and colour together with details of the door joinery have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.

6) The revised access layout shall be created in accordance with the approved drawings, laid out, constructed and provided with a 2.4m parallel exit visibility sightline across the entire frontage of the site. The area in advance of the sightlines shall be kept clear of any obstructions in excess of 1m measured above the adjacent carriageway channel. The highway boundary shall be formally demarcated in both accesses and Plot 1 shall not be occupied until the footway fronting it has been formally reinstated where vehicular access is no longer required in accordance with a detailed scheme of reinstatement to be submitted to and approved in writing by the local planning authority. No part of the parking spaces laid out for Plot 1 shall encroach upon the public footway.

7) The dwellings hereby approved shall not be occupied until the car parking spaces shown on the approved drawings have been constructed with a solid bound material in accordance with a specification to be submitted to and approved in writing by the local planning authority. The parking spaces shall thereafter be retained for that purpose.

8) No development shall take place until a contaminated land assessment, including a site investigation and remediation scheme (if necessary) has been submitted to and approved in writing by the local planning authority. If during any subsequent works contamination is encountered that has not previously been identified, then such contamination shall be fully assessed and a remediation scheme shall be submitted to the local planning authority for approval in writing. Any remediation scheme required shall be implemented as approved and, in the event of such a scheme being required, the buildings hereby approved shall not be occupied until a contaminated land closure report has been submitted to and approved in writing by the local planning authority.

9) No development shall take place until details of foul and surface water drainage arrangements have been submitted to and approved in writing by the local planning authority.

10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

    i) the parking of vehicles of site operatives and visitors
    ii) hours of construction working including any piling
    iii) loading and unloading of plant and materials
    iv) storage of plant and materials used in constructing the development
    v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
    vi) wheel washing facilities
    vii) measures to control the emission of dust and dirt during construction
    viii) a scheme for recycling/disposing of waste resulting from demolition and construction works

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