

92 HIGH STREET, NEW MILLS, DERBYSHIRE, SK22 4BR

**USE OF EXISTING DWELLING AS HOLIDAY ACCOMMODATION INCORPORATING
MINOR ELEVATIONAL CHANGES (AMENDED SCHEME TO PREVIOUS CONSENT
REF HPK/2021/0083 DATED 8 OCTOBER 2021)**

APPEAL AGAINST CONDITION 5 OF PLANNING CONSENT REF HPK/2023/0234

GROUND OF APPEAL FOR THE APPELLANT

DECEMBER 2023



*GTP Ltd
24A Market Street
Disley
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1 INTRODUCTION

- 1.01 This statement is provided on behalf of Mr J Rimmer with regard to the planning appeal submitted in respect of a planning condition imposed onto consent ref HPK/2023/0234 which approved the use of the property as holiday accommodation, following a previous consent for the same use.
- 1.02 This statement considers the wording of the Council's condition and the reason for its inclusion, and provides the background to the case by depicting the scheme and the planning history of the site.

2 BACKGROUND

2.01 The decision notice dated 10 November 2023 is included as part of the appeal submission documentation which granted permission for the scheme and included four reasonable conditions relating to the time period for commencement, the approved plans, obscure glazing for certain windows, and holiday occupancy.

2.02 However, the decision also included an unreasonable and unnecessary fifth condition that is the subject of this appeal which reads as follows:

5. No hot tubs shall be installed within the external areas of the application site at any time.

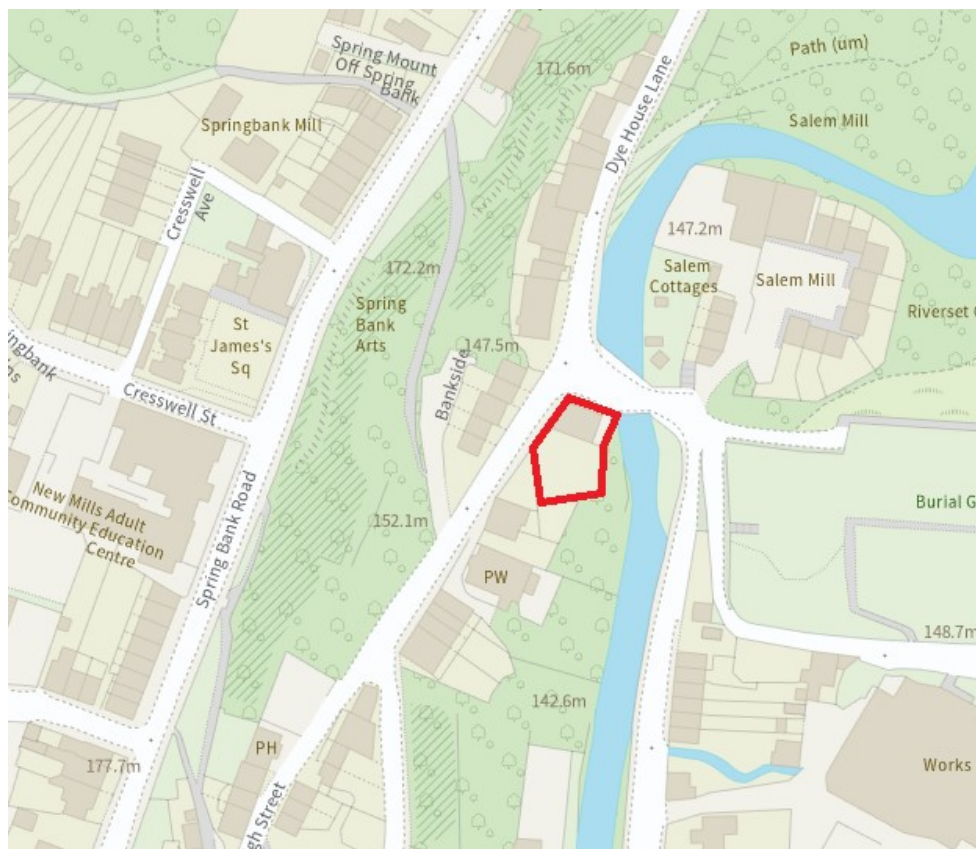
Reason: In the interests of amenity in accordance with Local Plan Policy EQ6 and paragraph 130 of the NPPF.

2.03 The appellant seeks the removal of condition 5 via this appeal.

3 THE APPEAL SITE AND ITS SURROUNDINGS

- 3.01 The site lies at the road junction of High Street and Dye House Lane, with sloping land to the east side leading down to the river beyond which is Hyde Bank Road. An aerial view denoting the extent of the site by a red line is included on the cover of this statement.
- 3.02 The building is three-storey in nature and lies a short distance from the main town centre of New Mills to the south, with the area typically being residential in composition with a small number of commercial uses. The property lies within the New Mills Conservation Area and has a side driveway leading off from the northern side to a large rear private curtilage which is set at a level much lower down from the road to the west and has the river boundary to the east. A location plan for the site is provided below at Figure 1:

Figure 1: Location Plan



4 THE APPROVED DEVELOPMENT

- 4.01 The approval of HPK/2023/0234 on 10 November 2023 followed a previous planning consent at the site ref HPK/2021/0083 which was issued on 8 October 2021 to allow the use of the building as holiday accommodation and included changes to the elevations. The 2021 permission was subject to a total of nine conditions relating to: time period; approved plans; details of all joinery; details of vents; hard and soft landscaping; car parking; obscure glazing; and occupation restrictions. No condition relating to hot tubs was included, as evidenced by the copy of the decision notice which is provided at **Appendix 1** of this statement.
- 4.02 The November 2023 consent allowed minor changes to the October 2021 approval and provided the necessary details to address the issues contained within the previous planning conditions, and followed the commencement of internal work on the property by the applicant which revealed that a more rational floor plan could be achieved along with a higher quality of external appearance, with much of the existing building fabric being more dilapidated than anticipated. The approved elevations include annotations for the following works:
- Refurbishment of existing lintels and sills to windows and doors to be recoated in matching blue.
 - Refurbishment of existing single pane timber frames of windows to former ground floor shop front and panes replaced with double glazing to meet current building regulations.
 - Dilapidated single pane timber sash windows repaired and refurbished, with glass replaced by double glazed panes.
 - New timber framed double glazed sash effect windows to replace existing dilapidated units.
 - Repair of existing roof with missing slates replaced with reclaimed slates to match, and replacement of existing and missing guttering sections.
 - Rebuilding of dilapidated stone front boundary wall to the same style and alignment with traditional handrail/edge protection to meet building regulations.

5 PLANNING POLICY FRAMEWORK

- 5.01 It is noted that the Council have utilised Paragraph 130 of the National Planning Policy Framework of July 2021 and Policy EQ6 of the High Peak Local Plan adopted in April 2016 as the reason for including condition 5. These are reviewed as follows.

National Planning Policy Framework (NPPF)

- 5.02 Paragraph 130 of the NPPF lists a total of six criteria to which planning policies and decisions should ensure that developments adhere, namely:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

- 5.03 It is unclear from the Council's decision notice which of the above are being utilised to justify the need for condition 5.

High Peak Local Plan (HPLP)

- 5.04 Policy EQ6 'Place Making' requires all development to be well designed and of a high quality that responds positively to both its environment and the challenge of climate change, whilst also contributing to local distinctiveness and sense of place. The policy then sets out a total of 11 requirements for development and whilst it is unclear from the Council's reason which is being referenced, as the reason includes the term 'amenity' it is presumed that the fourth bullet point is being referenced, which reads as follows:

"Requiring that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity."

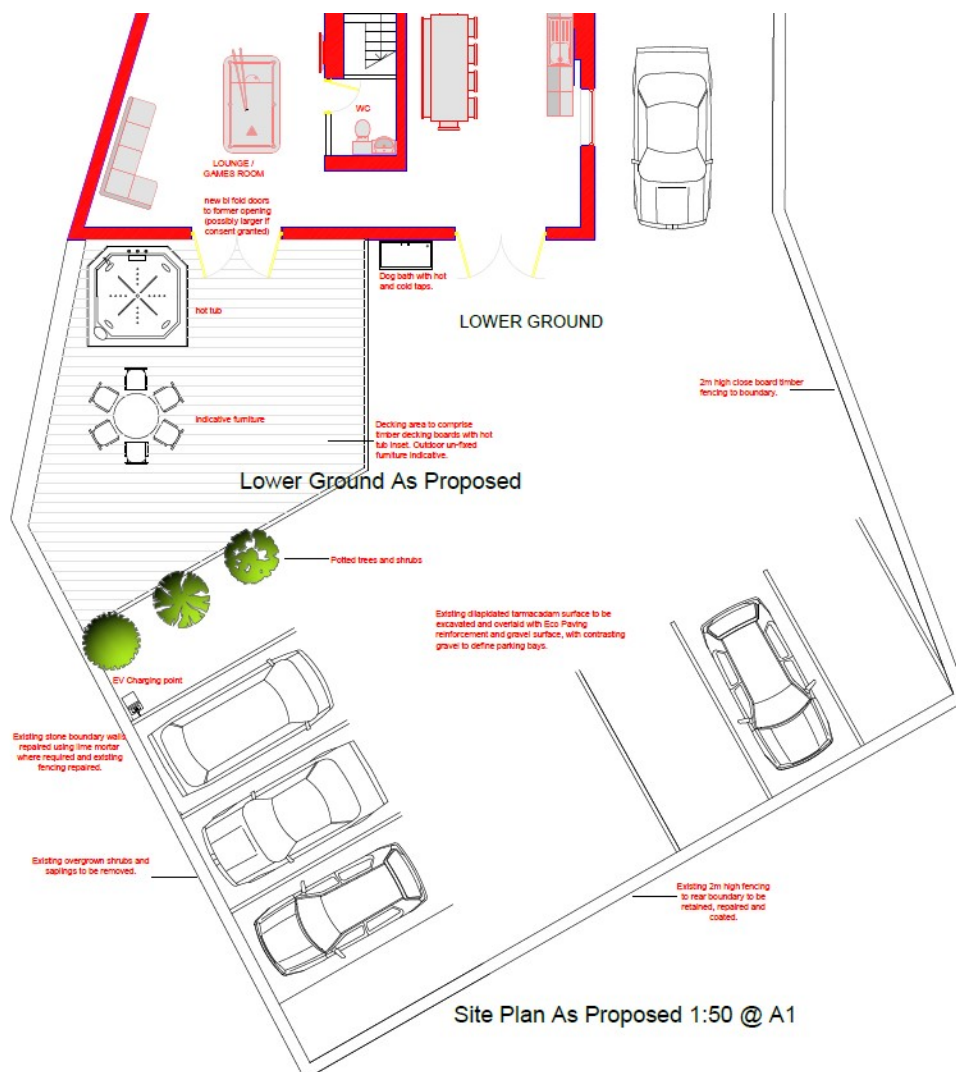
The Use of Planning Conditions

- 5.05 The NPPF confirms at Paragraph 56 that planning conditions should be kept to a minimum and only imposed where they are:
- necessary
 - relevant to planning
 - relevant to the development permitted
 - enforceable
 - precise
 - reasonable in all other respects
- 5.06 Leading on from the NPPF, National Planning Practice Guidance (NPPG) informs that: *"the objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls."*

6 THE CASE FOR THE APPELLANT

6.01 The appeal seeks the removal of condition 5 of the November 2023 planning consent ref HPK/2023/0234 on the basis that the said condition is unreasonable and unnecessary, and was only included by the Council as one version of a proposed site layout plan showing the rear curtilage of the property included a potential site for a hot tub to be sensitively placed adjacent to the lower ground floor in a non-obtrusive position abutting the tall retaining wall to the west which would largely have precluded it even being seen. An extract from this plan is provided below at Figure 2 for the benefit of the Inspector:

Figure 2: Extract from a Previous Version of the Layout Plan



6.02 The appellant rightly considers that the inclusion of a hot tub is not unusual these days for a holiday let or indeed for any standard residential property on the basis that they provide a reasonable recreational facility, especially for a location such as the appeal property where the occupants of the holiday let may well have been out walking in the Peak District during the day and can then relax and recuperate in a hot tub if they wish to do so. The large rear curtilage which is abutted by the building, retaining walls and the river provides ample scope for such a facility to be readily placed on the approved decking area adjacent to the rear of the holiday let without detriment to the amenity of the locality or any residential occupiers.

6.03 The use of condition 5 is assessed against the six tests stated in the NPPF as follows:

Necessary – the condition is not necessary for the development to have been approved.

Relevant to planning – the inclusion of a hot tub within the development is a perfectly reasonable facility which would not give rise to any impact on amenity.

Relevant to the development permitted – the use of a condition to prevent a hot tub being included is not relevant to the use as a holiday let.

Enforceable – it is agreed that the condition would be enforceable.

Precise – it is agreed that the condition is precise.

Reasonable in all other respects – the appellant does not believe that there is any basis on which the inclusion of condition 5 can be considered as reasonable.

6.04 It is further noted that the previous consent issued in 2021 did not include any such condition, making its unexpected inclusion on the 2023 permission even more unjustified, especially as no discussion on the use of such a condition was entered into with the agent or applicant ahead of the decision notice being issued.

Conclusion

- 6.05 For the reasons contained in this statement, it is considered that Council's inclusion of condition 5 is unreasonable and unnecessary, and without foundation in the quoted policies and guidance in the reason for its imposition. The use of such a condition fails four of the six key tests set out in the NPPF.
- 6.06 It is therefore respectfully requested that the appeal be allowed with condition 5 removed from planning consent ref HPK/2023/0234.

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