

DELEGATED DECISION REPORT

HPK/2024/0011
Valid 25/01/2024

5B HAGUE STREET FARM
HAGUE STREET
GLOSSOP

APPLICATION FOR
VARIATION TO CONDITIONS
13 AND 14 IN RELATION TO
HPK/2006/0380
(FULL - MINOR)

MAIN ISSUES

- All material planning issues relating to the conditions which are sought to be removed or varied.

DESCRIPTION OF SITE

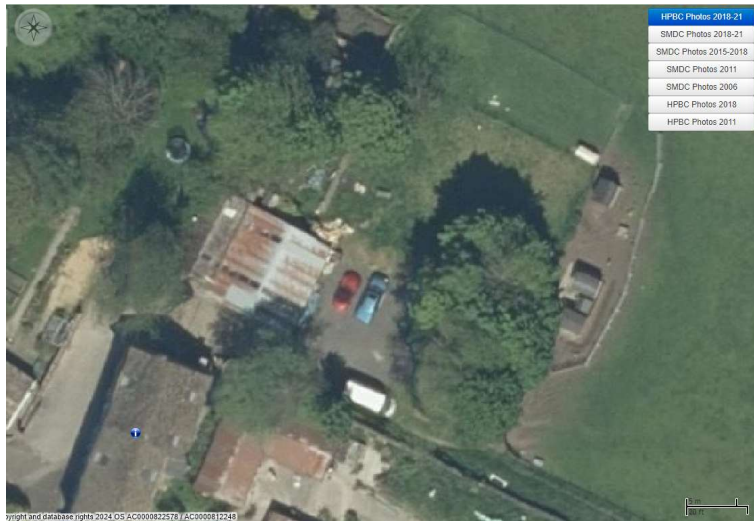
The application relates to No.5B Hauge Street, Glossop, a two storey residential dwelling constructed from a natural stone. It was a former agricultural barn that was converted following planning permission granted under HPK/2006/0380.

The vehicular access to the property extends eastwards from the public highway and around the northern elevation of the former barn to an area of hard standing, beyond which stand two rather dilapidated outbuildings, identified as Building 'X' and Building 'Y' on the Location Plan approved under HPK/2006/0380 and on that submitted with this application.

The character of the area to the north of the site including these buildings has changed somewhat since the conversion of the building, as shown by the aerial satellite photographs held by the Council below:



Above: *Satellite photograph of the site (2011)*



Above: Satellite photograph of the site (2018-21)

The 2006 approval was subject to a number of conditions, including compliance conditions Nos. 13 and 14 which state the following:

13. The residential accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the business use of the buildings marked X and Y on the Revised Location Plan Rev A received by the Local Planning Authority on 25th May 2006.

Reason:- To prevent the establishment of an independent dwelling in accordance with Policy GD5 of the adopted High Peak Local Plan (2005).

14. The premises marked X and Y on the Revised Location Plan Rev A received by the Local Planning Authority on 15th May 2006, shall be used for storage, sorting and packing of fruit and vegetables and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without consent).

Reason:- To define the permission for the avoidance of doubt in the interests of amenity, in accordance with Policy GD5 of the adopted High Peak Local Plan (2005).

PROPOSAL

The application as submitted sought permission to remove Condition 13 in its entirety and to vary Condition 14 by way of removing the phrase “fruit and vegetables”.

The justification for the removal of Condition 13 as stated on the Application Form is because *“at the time there was a moratorium in place which was the reason for the condition, we also now wish to downsize and sell the property.”*

The justification for the variation of Condition 14 as stated on the Application Form to remove the phrase ‘fruit and vegetables’ is *“because we would now like to sell the*

property and we think this very restrictive for anyone wanting to use the premises for their own small business."

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2006/0380 Change Of Use Of Former Agricultural Buildings To Residential, Office And Storage And Distribution Use (Approved 18/07/2006)

CONSULTATIONS

Publicity

Site Notice expiry date: 14th March 2024
Neighbour consultation period ends: 19th February 2024
Press Advert: 29th February 2024

Public Comments

None

Town / Parish Comments

N/A

Conservation Officer

No comments to make

Derbyshire County Council Highways

No objections

OFFICER COMMENTS

All material planning issues relating to the conditions which are sought to be removed or varied

Variation of Condition 13

The original application as submitted sought to remove Condition 13 which states the following:

13. *The residential accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the business use of the buildings marked X and Y on the Revised Location Plan Rev A received by the Local Planning Authority on 25th May 2006.*

The premise of this condition is to ensure that the building to be used for commercial purposes are used in connection with the residential dwellinghouse, to effectively control the level of intensification associated with the site, in the interests of amenity,

which having regard to the current Local Plan (LP), relates to LP Policy EQ10 and relevant paragraphs under Chapter 15 of the NPPF.

LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.

Paragraph 191 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life⁶⁹;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation

When assessing the potential impacts of removing this condition, Officers have concluded that the phrasing of Condition 13 is poorly worded, and essentially ties the commercial buildings to the residential property ‘the wrong way around’, given that the purpose of the condition is to ensure that the commercial buildings are ancillary to the residential dwellinghouse, and not the dwellinghouse being ancillary to the commercial buildings.

With the above in mind, Officers suggested to the applicant that whilst the Council would not support the removal of Condition 13, due to the fact this would allow the commercial buildings to become their own separate planning units, to the detriment of public and residential amenity, there is an opportunity to vary the condition, whereby it is made clear that the commercial buildings are ancillary to the residential dwellinghouse.

The applicant has confirmed in writing their agreement to the following variation:

13. *The buildings marked X and Y on the Revised Location Plan Rev A received by the Local Planning Authority on 25th May 2006 shall strictly be used solely for ancillary purposes to the main dwellinghouse in line with the specific uses set out under Condition 14 and shall not at any time be sold off, sub-let, or otherwise occupied by a party, business or individual that does not reside at the main dwellinghouse known as Hague Street Farm, 5B Hague Street, Glossop.*

This variation ensures that the commercial buildings cannot be separated from the existing dwellinghouse (the planning unit) and preserves the amenity of neighbouring properties and the general public in accordance with LP Policy EQ10 and paragraph 191 of the NPPF.

Variation of Condition 14

This variation as submitted sought to remove the phrase “fruit and vegetables” from the list of specific uses permitted within the commercial buildings defined by X and Y on the submitted plan.

The condition was required and is essential in order to control any potential intensification of the use of these buildings and to preserve the amenity of neighbouring residential properties and the general public, having regard to the (now redundant) former Local Plan (2005) Policy GD5, replaced by adopted Local Plan (2016) Policies EQ6 and EQ10, and relevant paragraphs under Chapter 15 of the NPPF.

The applicant – the same applicant that benefited from the permission to convert the agricultural building - currently runs a small scale fruit and vegetable delivery service from the site, with the buildings permitted to serve and facilitate that business use and that use alone.

Officers have made clear that the removal of the phrase “fruit and vegetables” is problematic as this would leave the condition somewhat open ended, loosely referring to “storage” and “packing” that doesn’t result in a clearly worded condition.

Further to ongoing discussions with the applicant, an alternative variation to Condition 14 has been agreed, whereby Building X commands a lawful use as a domestic garage and for domestic storage, in an ancillary manner to the main house, in conjunction with the varied Condition 13, whilst Building Y will continue to solely serve the fruit and vegetable delivery business, as per the original wording of Condition 14.

The agreed variation to Condition 14 reads as follows:

14. *The building marked X on the submitted Site Plan receiving in connection with HPK/2024/0011 shall be used as a domestic garage and for domestic storage purposes ancillary to the main dwellinghouse known as No.5B Hague Street Farm, Hague Street, Glossop. The building marked Y on the submitted Site Plan shall be used for storage, sorting and packing of fruit and vegetables and for no other purpose (including any other purpose in the B8 Use Class of the Town and Country Planning (Use Classes) Order 2021 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without that Order).*

The above variation is considered to be acceptable with regards to LP Policies EQ6 and EQ10 by virtue of the fact that when read in conjunction with the varied Condition 13, both buildings will operate in an ancillary manner to the main house, and will be used for purposes that would not generate any potential impacts (e.g.

noise, light pollution etc.) that would give rise to adverse impacts to public and/or residential amenity, in accordance with LP Policies EQ6 and EQ10, and relevant paragraphs under Chapter 15 of the NPPF.

Although the site lies within the Whitfield conservation area, the proposed amendment to the wording of conditions 13 and 14 does not raise any heritage concerns. No external changes are proposed.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework. It states that planning applications that accord with relevant policies in the Local Plan will be approved without delay.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application as submitted sought to remove Condition 13 and vary Condition 14 relating to a planning permission granted under HPK/2006/0380 for the conversion of an agricultural building to a residential property.

Following ongoing discussions with the applicant, the description of development has been amended so that both conditions are now the subject of a variation. The specific variations as set out within this report are considered to be acceptable in planning terms (with regards to public and residential amenity) and thus constitutes a sustainable form of development.

In line with LP Policy S1a and paragraph 11 of the NPPF, the proposed variations are recommended for approval, with all other relevant conditions continuing to apply.

OFFICER RECOMMENDATION : Approve

Case Officer: James Stannard

Recommendation Date: 22nd April 2024

X *J Colley*

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council