

DELEGATED DECISION REPORT

HPK/2024/0340
Valid 23/08/2024

LAURA COTTAGE
WOODSEATS FARM
WOODSEATS LANE
CHARLESWORTH

REMOVAL OF CONDITION 4
RELATING TO HPK/0002/8212

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Amenity
- Whether the condition meets the relevant tests under Paragraph 56 of the National Planning Policy Framework and National Planning Practice Guidance (NPPG).

DESCRIPTION OF SITE

The application relates to Laura Cottage, the middle of three terraced cottages, that sit between 'Mark Cottage' and 'Leigh Cottage', which sits to the south of the main cluster of buildings on the farmstead, forming part of the wider setting of Woodseats Farm, Charlesworth, a short distance from the village centre.

The three properties were formed as a consequence of converting a single storey agricultural building used in connection with the farm, and are accessed off Woodseats Lane, which under HPK/0002/8212 was originally granted as holiday accommodation, approved in September 1989.

In November 2023, the Council received an application under HPK/2021/0565 which sought a Certificate of Lawful Development for the existing use of the three properties as open market residential dwellings, which amounts to a breach of Condition 4 on the approval granted under HPK/0002/8212, which stipulated the following:

4. *This permission relates solely to the use of the premises for holiday residential use; the property shall not be occupied as a permanent dwelling and shall not be occupied by any persons for a continuous period exceeding 28 days*

As per the analysis contained within the Delegated Report associated with HPK/2021/0565 it was concluded that whilst sufficient evidence existed to demonstrate that 'Mark Cottage' and 'Leigh Cottage' had been used as permanent dwellinghouses for a continuous period of 10 years, thereby immune from enforcement action, and thus lawful, insufficient evidence existed due primarily to gaps in tenancy, in relation to 'Laura Cottage'.

As such a split decision was issued, with the Certificate only granted in relation to the other two cottages, and not Laura Cottage.

Whilst the application solely relates to Laura Cottage, the extent of the site (i.e. the red edge on the Location Plan) is drawn to include all three properties, to be consistent with the original permission granted under HPK/0002/8212.

PROPOSAL

Further to the split decision issued under HPK/2021/0565, this application seeks to remove Condition 4 relating to HPK/0002/8212 in its entirety, thereby allowing Laura Cottage to function, like its neighbours, as a permanent independent dwellinghouse.

At the request of Officers, and in order to fully assess the scheme with regards to the standard of amenity for future occupiers of the property, scaled Floor Plans have been submitted (Ref: 100).

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- EQ3 Rural Development
- EQ4 Green Belt Development
- H1 Location of New Housing Development
- H3 New Housing Development
- E6 Peak District Tourism and Culture

National Planning Policy Framework 2023

- | | |
|---|------------|
| Achieving Sustainable Development | Chapter 2 |
| Delivering a Sufficient Supply of Homes | Chapter 5 |
| Protecting Green Belt Land | Chapter 13 |

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0002/4279	Alteration to existing packing and storage building to provide cottages for farm manager and farm worker both employed at Woodseats Farm (Withdrawn 10/08/1987)
HPK/0002/5105	Erection of farm workers cottage to provide accommodation for employee (Approved 02/04/1987)
HPK/0002/8212	Alterations to existing packing and storage building to provide holiday accommodation (Approved 14/09/1989)
HPK/0003/2655	Retention of concrete interlocking roofing slate and removal of Condition 2 of previous consent 028212 (Approved 07/07/1993) First floor extension and alterations to ground floor to provide new dwelling for dependant relative (Refused 19/12/1996)
HPK/0003/5713	
HPK/2011/0403	Reconstruction and extension of outbuilding to form single storey storey domestic garage (Refused 23/11/2010)
HPK/2012/0613	Proposed domestic garage (31/12/2012)
HPK/2021/0564	Certificate of Lawfulness for an existing use as an open market residential dwelling in breach of Condition 3 on approval HPK/0002/5105 (Granted 06/11/2023)
HPK/2021/0565	Certificate of Lawfulness for an existing use as an open market residential dwelling of Condition 4 on approval HPK/0002/8212 (Mark, Laura, Leigh Cottage) (Split Decision Granted (Mark & Leigh) and Refused (Laura) 24/11/2023)

CONSULTATIONS

Publicity

Site Notice expiry date: 18th September 2024
Neighbour consultation period ends: 13th September 2024
Press Advert: N/A

Public Comments

None

Charlesworth Parish Council

No comment

Derbyshire County Council Highways

No Objections

OFFICER COMMENTS

Principle of Development

The application seeks the removal of a condition that restricts the use of a property as self-catering holiday accommodation under a permission granted in September 1989. Further to evidence submitted with the recent application for a Certificate in 2021, it is clear that building has intermittently been used as a permanent residence for a significant amount of time, albeit not continuously. The 2021 application has confirmed that the neighbouring properties are now lawfully being occupied as permanent dwellinghouses.

Having regard to Local Plan (LP) Policies EQ3 and H1, and relevant paragraphs under Chapter 5 of the NPPF, the removal of the condition would see the use of an existing building as a permanent residence, with no new physical development meaning no material change to the immediate or wider rural landscape character, located within relative proximity to the centre of Charlesworth, identified as a Larger Village under LP Policy S2, which accept development of a moderate scale. The use of the building as a permanent dwellinghouse thereby is supported in principle having regard to strategic housing policy.

Whilst it is accepted that the property is not located in a sustainable location with regards to its connection with local services, facilities and public transport links, the use would not be materially different to the conversion of an agricultural building, which is supported in principle, irrespective of its location.

LP Policy E6 seeks to promote tourism by supporting tourism and provision for visitors which is appropriate to the settlements and countryside and by retaining and enhancing existing serviced provision to encourage overnight stays.

The loss of one existing self-catering short term holiday accommodation property would have no material impact on the local tourism economy and thus there is not considered to be any conflict with LP Policy E6.

The site lies within the Green Belt. LP Policy EQ4 states that applications should be assessed and determined in line with national policies set out under Chapter 13 of the NPPF.

Exceptions to inappropriate development set out under Paragraphs 155 of the NPPF, thereby resulting in the principle of development being acceptable, includes the following:

- d) *the re-use of buildings provided that the buildings are of permanent and substantial construction*

There is no doubt, given that the building is constructed from a natural stone with slate roof and being occupied, that it is of permanent and substantial construction. As such, the removal of the condition to facilitate the use of the building as a permanent residence would not be in conflict with local or national planning policies relating to the protection of the Green Belt.

Amenity

LP Policy H3 relates to New Housing Development and requires all development to provide a high standard of amenity for future occupiers by meeting or exceeding Nationally Described Space Standards (NDSS) published by DCLG (2015).

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

The High Peak Residential Design Guide SPD requires extensions to preserve the residential amenity of neighbouring properties, having regard amongst other things to the relationship between existing and proposed development, the positioning of windows, and the change in land levels.

Paragraph 135 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

With regards to potential impacts to neighbouring properties, the use of the property as a permanent dwellinghouse is not considered to be materially different to the current lawful use as a holiday let, given that there would be no new physical development, no changes to boundary treatment, and no changes to the internal layout and functionality of rooms, thereby not resulting in any change to the rooms that each window serves.

Turning to the standard of amenity for future occupiers, the site benefits from an informal parking area to the front of the property, and also benefits from a large rear garden.

It is necessary to consider the internal floor layout of the property and compliance or otherwise with Nationally Described Space Standards when assessing whether the property is suitable to be used as a permanent residence (failure to comply with NDSS not being as important to short term holiday lets given the temporary nature of the occupancy).

No floor plans were submitted with the application. In the absence of such plans, it isn't possible to ascertain whether the property is compliant with NDSS. As such, and at the request of Officers, Floor Plans have been submitted, which show the two storey property to have three bedrooms, with the smallest bedroom having a floor area of 10sqm, and the total internal floor area of the property totalling some 123sqm.

The minimum internal floor area for a two storey property with three bedrooms and maximum occupancy (6) is 102sqm and therefore the property comfortably exceeds this minimum threshold. However, one of the bedrooms has a floor area below the minimum standards for a double room (11.5sqm), it is recommended that a condition be applied that restricts the maximum occupancy of residential dwellinghouse to five people at any one time.

Subject to this condition, the removal of the condition and permanent occupancy of the property is considered to be in accordance with LP Policy EQ6, the Residential Design Guide SPD, and relevant paragraphs contained under Paragraph 135 of the NPPF.

Whether the condition meets the relevant tests under Paragraph 56 of the National Planning Policy Framework and the NPPG

Paragraph 56 of the NPPF supported by online Planning Practice Guidance confirm that planning conditions should only be imposed where they are:

- i. Necessary;
- ii. Relevant to planning;
- iii. Relevant to the development permitted;
- iv. Enforceable;
- v. Precise; and
- vi. Reasonable in all other respects;

The accompanying Planning Statement makes reference to Circular 11/95: Use of conditions in planning permission (paras 14-42 of the annex), as follows:

“stress that conditions should only be imposed where they are both necessary and reasonable.. Attention is particularly draw to paragraphs 15-16 which advise that in considering whether a condition is necessary authorities should ask themselves whether planning permission would have been refused if the requirements of that condition were not imposed.”

and

“as a matter of policy, a condition ought not to be imposed unless there is a definite need for it.”

The supporting Planning Statement (paras 4.8-4.11), sets out the applicants position as to how and why the condition fails to meet any of the six tests set out above. This analysis can be summarised as follows:

- *Laura Cottage, together with its neighbours have not been used as holiday accommodation since their construction in the early 1990's, and have always been occupied as permanent dwellinghouses, and in light of the Certificate (split decision) issued in 2023, no enforcement action can be pursued in connection with the other two properties*
- *The conversion to a permanent residential dwellinghouse is supported by local and national planning policies, with the current breach based on a point*

of technicality, resulting from a break in full time residential occupancy of Laura Cottage, which led to the split decision being issued with regards to the Certificate of Lawful Development application.

- The reason for applying the condition in the first place is unclear as it simply states “for the avoidance of doubt” without explaining the policy basis for this restrictive condition or why harm would arise as a result of permanent occupancy. The condition is no longer relevant, full time occupancy is acceptable in policy terms, and in the absence of clarity or detail for the reason of applying this condition, the condition does not meet the tests of necessity or relevance.*
- In relation to the enforceability of the condition, this can only be applied to Laura Cottage and not the other two properties, in light of the split decision issued in 2023. The condition was applied to the whole building which was split into three dwellinghouses. It would therefore be unreasonable to enforce it in the context of the use not being materially different across all three properties, which to all intents and purposes has been used in the same way for 30 years. On that basis, the condition is unenforceable and unreasonable, given that a Certificate has been issued in respect of two thirds of the development.*

When considering the original planning permission, subsequent planning history and the specific characteristics and use of Laura Cottage and its neighbour, Officers accept the argument as to why this condition does not meet the relevant tests set out within the NPPF and online PPG, particularly with regards to being necessary, when considering that the loss of one self-catering holiday let unit would have no material impact on the provision of tourism accommodation more broadly in the Borough.

CONCLUSION / PLANNING BALANCE

In any event, the fact that the proposed use of the property as a permanent dwelling is supported by all relevant Local Development Plan policies and other material considerations which includes the NPPF results in Officers concluding that the removal of this condition which restricts the use of the property solely for short term holiday let accommodation amounts to a sustainable form of development, and therefore in line with LP Policy S1a and paragraph 11 of the NPPF, the application is recommended for approval, subject to re-worded conditions as appropriate that were applied to the original consent.

OFFICER RECOMMENDATION : Approve

Case Officer: James Stannard

Recommendation Date: 10th December 2024

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council