



Appeal Decision

Site visit made on 22 April 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th May 2025

Appeal Ref: APP/H1033/W/25/3358734

Shallcross Hall Farm, Shallcross Road, Whaley Bridge SK23 7BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Alan Sidebotham against the decision of High Peak Borough Council.
 - The application Ref is HPK/2024/0240.
 - The application sought planning permission for adaptation of farmhouse to provide a dwelling and 4 holiday accommodation units, including open swimming pool without complying with a condition attached to planning permission Ref HPK/2006/0358, dated 15 October 2007.
 - The condition in dispute is No 2 which states that: *"The 4 units of holiday accommodation shall not be used as permanent dwellings"*
 - The reason given for the condition is: *"To ensure no conflict with the High Peak Local Plan housing policy objectives."*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The initial proposal for the 4 holiday accommodation units was specifically assessed based on its provision of tourist accommodation. On this basis, the principle of development was found acceptable when considered against the development plan and Framework. Although within the same use class, and accepting that the current condition does not limit the number of days it can be occupied, there are material differences between occupying the units for holiday purposes, compared to their use as a permanent dwelling. It is therefore, in my view, correct to assess the principle of the development against the relevant local and national planning policies for new residential development in terms of its location.
3. A condition should not be imposed if it fails to meet the six tests set out in the Framework. Both parties agree that the condition is relevant to planning and to the development permitted.
4. With regards to enforceability, the appellant states that the condition does not limit the number of days and does not require the operators to maintain a register of owners/occupiers of the holiday units and refers to another appeal where such a requirement has been imposed¹. However, I am not persuaded that such a requirement is necessary. If the Council had reason to believe a breach of condition had occurred, the burden of proof would be on the appellant to

¹ Ref: APP/Q1153/W/20/3245715

demonstrate otherwise and not on the Local Planning Authority to spend time and resources finding evidence to prove a breach had occurred. In this regard, I find that the condition is enforceable. Irrespective of such a requirement, the appellant would likely have records of who had occupied the units over a given period.

5. The original decision refers to Policy LT12 of the Local Plan that was in force at the time of the original decision. This makes reference to conditions being imposed on tourist accommodation to prevent permanent occupation of developments permitted only for holiday accommodation. The condition does precisely that, preventing the holiday accommodation to be used as permanent dwellings. As a result, it limits the use. I accept that there is no condition limiting the periods of occupation and it may be possible for the units to be let on a long term lease, however it is clear that the condition restricts the use such that they could not be occupied as permanent dwellings. I will consider why such use may be inappropriate in my reasoning. On that basis, I consider the condition to be precise.
6. As part of the main issues in the appeal, I will now go onto consider whether the condition is reasonable and necessary.

Main Issues

7. The main issues are:
 - whether the disputed condition is reasonable and necessary having regard to the spatial strategy; and
 - whether the disputed condition is reasonable and necessary having regard to the living conditions of future occupiers with regard to space standards.

Reasons

Location

8. The appeal site lies outside of the defined settlement boundary of Whaley Bridge and therefore falls within the countryside for planning policy purposes.
9. Policy EQ3 of the High Peak Local Plan (2016) (LP) seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness. It also supports the provision and expansion of tourist facilities. In addition, it sets out several exceptions where new residential development is allowed. One exception is the re-use of redundant and disused buildings. The appellant accepts that the holiday units are not disused but argues that they are currently under-utilised with high vacancy rates. However, very little evidence has been presented to substantiate this claim. Notwithstanding this, the units are clearly not disused or redundant.
10. Policy EQ3 also allows forms of new residential development which is in accordance with Policy H1 of the LP. Policy H1 allows for development outside settlement boundaries where four criteria are met.
11. The development is not creating any new residential development, nor are any external alterations proposed. It would therefore not lead to a prominent intrusion in to the countryside or have a significant adverse impact on the character of the countryside over its existing use, according with one of the criteria.

12. Whilst the Highways Authority expressed some concern regarding the footway on Elnor Lane, they acknowledged that this does not present a significant barrier for some trips to be made on foot. The Highways Authority also acknowledged that the site has good pedestrian access to bus stops within recommended walking distances of the appeal site, which provides good links to the local town. Indeed, I observed the close proximity of bus stops on my site visit. Therefore, I consider that the site does have reasonable access by foot, cycle and public transport to nearby services, as required by another criteria of the policy.
13. However, one of the criteria is that development should adjoin the built up area boundary. The site does not adjoin the built up boundary and thus fails to meet the first criteria. As all four criteria need to be met, it fails to accord with Policy H1 of the LP and thus in turn fails to meet any of the exceptions set out in Policy EQ3 of the LP. Moreover, if the condition were removed, the permanent occupation of the holiday accommodation units would reduce the availability of tourist facilities, which Policy EQ3 also seeks to support.
14. In conclusion, the disputed condition is reasonable and necessary having regard to the spatial strategy. The development plan does not support the use of the holiday units for permanent residential occupation in this location, conflicting with both Policy EQ3 and Policy H1 of the LP. Removal of the condition would also conflict with Policy E6 of the LP, which, amongst other matters, seeks to maintain existing tourist facilities and encourage overnight visitor stays.
15. The Council in their decision notice assert that the loss of tourism accommodation would be contrary to Paragraph 84 of the Framework. However, this paragraph relates to isolated homes in the countryside and not tourism.

Living conditions

16. Part e) of Policy H3 of the LP seeks adequate internal space in accordance with the Nationally Described Space Standards (NDSS). Whilst the NDSS in itself is not national policy it nonetheless forms part of the policy within the development plan.
17. The Council has outlined that none of the units of accommodation currently meets the minimum overall floorspace standards set out in the NDSS based on the number of bedrooms within each of the units. From the information before me, I have no reason to dispute this, and note that the appellant has not disagreed with the measurements put forward by the Council. Whilst the use of internal space is a choice for occupants, and some of the units could be occupied by couples rather than families, the floorplans demonstrate the intended use of the rooms and it is therefore not unreasonable to assess the rooms on this basis.
18. I note that Policy H3 uses the word 'seek', which can indicate an element of discretion. However, in this case, the units fall considerably short of the minimum space standards required. Whilst the policy does not stipulate a requirement for private outdoor amenity space, the limited indoor space would be exacerbated by the lack of any private outdoor amenity space. I accept that the units are located within the open countryside, which occupiers could use for recreation. However, this is not the same as private outdoor space which would allow occupiers to undertake normal day-to-day domestic activities such as drying clothes or socialising privately with friends and family. It would not therefore provide an equivalent compensatory provision nor sufficiently mitigate against the substandard size of the internal accommodation.

19. The units are currently in a form of residential use and in that regard would not technically be new residential development which Policy H3 is focussed on. However, holidaymakers generally have lower expectations in relation to living conditions, compared to permanent residents. Whilst the current condition could allow holidaymakers to rent the units for a prolonged period, holidaymakers generally occupy accommodation for relatively short periods and can spend large amounts of time outside their accommodation, visiting the local area. I find that their need for space would typically be lower than that of permanent residents.
20. In conclusion, the disputed condition is reasonable and necessary having regard to the living conditions of future occupiers with particular regard to space standards. The size of the units does not render them suitable for permanent residential occupation and the removal of condition 2 would cause unacceptable harm to the living conditions of future occupiers with regard to space. This would conflict with Policy H3 of the LP. It would also conflict with Policy EQ6 of the LP which requires, amongst other matters, development to be well designed and to not have adverse impacts on amenity. It would also conflict with Paragraph 135 of the Framework, which makes it clear that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.
21. Whilst noting the appellant's comments regarding lack of external amenity space in purpose built apartments and subdivided dwellings in suburban or city centre locations, there is nothing before me indicating the size of the internal space of such development in respect of the NDSS. This does not, therefore, alter my conclusions on this main issue, which has been determined on its own merits.

Other Matters

22. I note the email comments between the planning officer and the appellant which stated that there were no outstanding issues. However, it does not alter my conclusions which has been based on the planning merits of the case. The officer report and decision notice clearly articulate the Council's concerns. This does not therefore have any significant bearing on my conclusions in this appeal.
23. Whilst no objections were received from neighbouring residents or the Town Council, an absence of objections does not mean a proposal is acceptable in planning terms and does not alter my conclusions on the main issues, which are based on the planning merits of the case.

Planning Balance

24. The Council has a 2.85 year housing land supply, this is substantially below Government expectations. Consequently, paragraph 11d)(ii) of the Framework applies. This indicates that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
25. The removal of the condition would result in four units of accommodation to be used as permanent dwellings, in a location with reasonable access to services and facilities. This is a limited number, but given the current housing supply these

benefits weigh moderately in favour of the proposal, and the Framework recognises that small sites can contribute towards meeting housing need.

26. There would also be some economic and social benefits from future permanent occupiers spending in the local economy and supporting local services and facilities. However, as holidaymakers would also spend in the local economy, and I have no substantive evidence to indicate poor occupancy, I afford this limited weight in favour of the scheme.
27. There would also be no harm to the character and appearance of the area. As the units can already be occupied by long term tenants, I accept that levels of activity in relation to comings and goings of pedestrian and vehicular movements would not necessarily have any greater impact on the living conditions of the neighbouring residents than holidaymakers. However, an absence of harm on these two matters is neutral in the planning balance.
28. The proposal conflicts with the development plan regarding the location of the development when assessed against Policy H1 and EQ3 of the LP. In so far as they relate to the location of housing, these policies are broadly consistent with the Framework's objectives. This includes recognising the intrinsic character of the countryside. To this extent, they can be afforded full weight. However, whilst the appeal site does not adjoin a built up area, given the proposal would not result in any new built development or external changes, provides reasonable access to services and facilities and would not result in a prominent intrusion into the countryside, I find it would protect the countryside's intrinsic character and distinctiveness, which is the thrust of what Policy EQ3 is seeking to achieve. I therefore give reduced weight to the harm arising from the conflict with Policy H1 and the parts of Policy EQ3 that relate to new residential development.
29. I have found the size of the units would render them unsuitable as permanent residential dwellings, in conflict with Policy H3 of the LP. The aims of this policy accord with the aims of Chapter 12 of the Framework which seeks well-designed places, as such I afford full and significant weight to the harm arising from the policy conflict with Policy H3 of the LP. The removal of the condition would conflict with the Framework at paragraph 135 which seeks decisions that provide a high standard of amenity for existing and future users.
30. Drawing the above together, when assessed against the policies in the Framework as a whole, and having particular regard to policies in the Framework for securing well-designed places as set out in paragraph 11d)(ii), the adverse impacts of the proposal, significantly and demonstrably outweighs the benefits. Consequently, the proposal does not benefit from the presumption of sustainable development.

Conclusion

31. In light of the foregoing, I conclude that the disputed condition is reasonable and necessary to control the occupation of the appeal property for the reasons set out. The development with the condition removed would conflict with the development plan as a whole and there are no material considerations of sufficient weight to indicate that the development should be permitted other than in accordance with the development plan. The appeal is therefore dismissed.

T Bennett INSPECTOR