
Appeal Decisions

Hearing held on 22 January 2014

Site visit made on 22 January 2014

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Decision date: 4 March 2014

Appeal A Ref: APP/R1038/A/13/2198683

Hagg Hill Farm, Hagg Hill, New Tupton, Chesterfield S42 6JU

- 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 Mr Melvyn Humphreys against the decision of North East Derbyshire District Council.
 - The application Ref 13/00030/FL, dated 14 January 2013, was refused by notice dated 28 March 2013.
 - The development proposed is the conversion of 2 garage/workshops to 2 no. 2 bedroom cottages and the retention of a mobile home for a temporary period.
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Appeal B Ref: APP/R1038/E/13/2198690

Hagg Hill Farm, Hagg Hill, New Tupton, Chesterfield S42 6JU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Melvyn Humphreys against the decision of North East Derbyshire District Council.
 - The application Ref 13/00031/LB, dated 14 January 2013, was refused by notice dated 28 March 2013.
 - The works proposed are the conversion of 2 garage/workshops to 2 no. 2 bedroom cottages.
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Procedural matters

1. Hagg Hill House (also referred to as Hagg Hill Hall) is a Grade II listed building. The garage/workshops building is free standing to the east of the listed building and is not mentioned in the list description. From my observation it is unlikely to have stood in its present form since before 1 July 1948 and the parties agree that it was likely to have been built in the early 1950s. Accordingly, when considered against the test in section 1(5)(b) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the building cannot be treated as part of the listed building. It follows that its conversion to 2 no. dwellings does not require listed building consent and I intend to take no further action on Appeal B.
2. At the opening of the Hearing the appellant requested that amended plan ref. 16295/2 dated 19 April 2013, be substituted for the relevant plan originally submitted. The substantive changes introduced by this plan are to reduce the number of roof-lights from 12 to 4. The Council did not object to this submission and as the modifications go towards addressing the reasons for

refusal, I am satisfied that dealing with Appeal A on the basis of the amended plan would not prejudice the interests of any party.

3. It was drawn to my attention that Derbyshire County Council is currently dealing with an application for a B2 use, as an addition to the existing B1/B8 use, at the adjacent site known as The Mill Place. However, this application has not yet been decided and I have dealt with this appeal on the basis of the scheme that is before me.

Decisions

Appeal A

4. I dismiss the appeal.

Appeal B

5. No further action is taken for the reasons set out above.

Main Issues

6. Whether the proposal would provide acceptable living conditions for the future occupiers of the proposed dwellings with regard to noise and disturbance, whether the proposal would be compatible with the adjacent industrial use and the effect on the setting of the listed building.

Reasons

Background

7. The appeal site is located in the open countryside and contains a detached building used as garage/workshops. It forms part of a building group that includes Hagg Hill House, now used as holiday accommodation, and a Grade II listed barn that has been converted to dwellings. This proposal is a revision of a scheme that was recently refused planning permission and listed building consent. It would convert the building into 2 no. dwellings. These would provide living quarters for the appellant and his son, and enable an on site presence to manage the holiday accommodation within Hagg Hill House. It is also proposed that a mobile home be retained on site until the works to effect the conversion of the garage/stores are complete.

Living conditions and the adjacent use

8. The appeal site abuts The Mill Place along its eastern boundary. This has planning permission for B1/B8 use, the latter of which could involve uses that are noise generating. One of the Core Principles of the National Planning Policy Framework (NPPF) makes it clear that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Furthermore, paragraph 9 states that pursuing sustainable development involves seeking positive improvements in peoples' quality of life, including improving living conditions. The NPPF also refers to the Noise Policy Standard for England which advises that the broad aim of noise management has been to separate noise sensitive development from significant sources of noise.
9. Two of the former agricultural buildings at The Mill Place would stand in very close proximity, albeit at a lower level, to the flanking wall and the shared rear

garden space of the proposal. The present Mill Place use does not appear to be generating a level of noise and disturbance that would adversely affect living conditions. Nevertheless, this proposal seeks to add to the housing stock over the longer term and in my judgement, an adjacent B8 use could lead to an unacceptably poor standard of amenity for future occupiers of the development.

10. The flank wall facing the industrial use would contain a window although the effect of any noise and disturbance within the interior of the proposed dwellings could be mitigated through the provision of sound insulation. However, the difference in level, the existing fence and the proposed planting along the boundary with The Mill Place would be unlikely to be sufficient to prevent noise and disturbance to the garden area from a noise generating B8 use in the adjacent site.
11. This would be particularly apparent in the summer months when greater use of the garden space would be likely to be made. The shared rear garden would appear to be the only amenity space associated with the proposed dwellings. As a result, the proximity to the adjacent industrial use would be oppressive and would diminish the enjoyment future occupiers might reasonably expect from their dwellings. Against this background, notwithstanding that the appellant and his son intend to live in the proposed dwellings, I consider that future occupiers of the proposal would be likely to suffer poor living conditions as a result of noise and disturbance from the neighbouring industrial use. Consequently, the proposal would fail to provide acceptable living conditions and a satisfactory addition to the housing stock.
12. It was drawn to my attention that other dwellings at Hagg Hill are also in close proximity to the neighbouring industrial use and the appellant has lived in a mobile home on the site without suffering from noise and disturbance. It was also claimed that in the general area, dwellings are to be found in close proximity to noise sources such as major transport routes. In addition, it was pointed out that Class J of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 temporarily allows conversion of B1(a) (offices) to dwellings, some of which could be in noisy locations.
13. Be that as it may, this proposal is not a permitted change under Class J so is not comparable. Furthermore, it is not intended that the mobile home would be used as a permanent dwelling on the site, the other residential conversions at Hagg Hill pre date the introduction of the NPPF and the presence of other developments, claimed to be similar, would not justify a further development which I consider would be harmful to the living conditions of future occupiers. Accordingly, the proposal would conflict with paragraphs 9 and 17 of the NPPF.
14. In addition, for the reasons stated above, I consider that the proposal would create a situation where incompatible uses would be placed in close proximity. While I note The Mill Place industrial use came about following the residential conversion of the Hagg Hill barns, I nevertheless consider that a further residential conversion of a building in close proximity to the B1/B8 use could adversely affect the future operation of the industrial use. This would be contrary to paragraph 123 of the NPPF which states that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use

since they were established. It would also conflict with saved policy GS7 of the adopted North East Derbyshire Local Plan (LP) and this adds to my concerns regarding the acceptability of the proposal.

The Setting of the listed building

15. The Council is concerned that the proposed conversion works would be visible, both from and in juxtaposition with, the nearby heritage asset. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development.
16. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. English Heritage guidance; *The Setting of Heritage Assets*, indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset.
17. The significance of an asset is defined in the NPPF as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Change affecting setting, including development, can sustain, enhance or better reveal the significance of an asset as well as detract from it or leave it unaltered.
18. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight attaches to the asset's conservation; the more important the asset, the greater that weight should be. Significance can be harmed through development within an asset's setting. The asset that would be affected in this instance by development within its setting is the Grade II listed Hagg Hill House. The wedge shaped garage/workshops building proposed for conversion has a monopitch roof and is lower on its northern side. This side shares a small courtyard with the listed building and contains 2 no. roller shutter style garage doors.
19. The proposal would include alterations to replace the garage doors with windows and doors, and insert 4no. roof-lights. The works would be minor in nature and would be in keeping with the established character of the host building. They would have the effect of improving its appearance by removing 2no. large roller shutters from the northern elevation. No boundary treatments are proposed for the courtyard, the open area to the rear of the garage/workshops or between the garden of the listed building and the access to the proposed parking area. The area to the rear of the garage/workshops is already screened from the listed building by a tall evergreen hedge.
20. Against this background, giving considerable weight to the desirability of preserving the setting of the listed building, I consider that the proposal would improve the appearance of the garage/workshops building, making it sit politely with the listed building such that they would form a harmonious group.

By so doing it would enhance the significance of the heritage asset and the contribution of its setting. Accordingly, the proposal would not conflict with paragraph 137 of the NPPF or saved LP policy BE9.

Conclusion

21. While I have found that the proposal would enhance the contribution of the setting to the significance of the heritage asset, this would not outweigh the other harm that I have identified under the main issues.
22. For the reasons given above I conclude that the appeal should be dismissed.

Richard McCoy

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs L Trollope MRTPI	Planning Agent
Mr M Humphreys	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Smith MRTPI	Planning Officer North East Derbyshire District Council
Mrs L Walton MRTPI	Planning Officer North East Derbyshire District Council

INTERESTED PERSONS:

Mrs B Dawson	Local resident
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DOCUMENTS

- 1 Council's letters of notification of the Hearing
- 2 Appellant's rebuttal to Council's statement and 3rd party representations
- 3 Suggested additional conditions

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