

**HIGH PEAK BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE**

26th February 2024

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| Application No: | HPK/2023/0541 | |
| Location | Land adjacent to Stubbins House, Unnamed road from Stubbins Lane to Tithe Barn, Chinley, Derbyshire, SK23 6ED | |
| Proposal | Erection of a stone building to provide a dwelling (part retrospective) and associated landscaping works | |
| PART | Mr Luigi Raimo | |
| Agent | MR BARRY CULLEN | |
| Parish/ward | Blackbrook Ward | Date registered 13/12/2023 |
| If you have a question about this report please contact: Pet Twigg tel: 07525705997 p.twigg@planningangel.co.uk | | |

REFERRAL

The application is brought before the Development Control Committee as the application is for retrospective development.

1. SUMMARY OF RECOMMENDATION

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|----------------|
| Refusal |
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2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The application site is located outside any recognised settlement boundary in the development plan, part way down an unnamed road from Stubbins Lane to Tithe Barn Farm, adjacent to Stubbins House.

2.2 The applicant has laid foundations and started building the shell of a dwelling, blockwork up to first floor level, on land that formerly had an agricultural barn on it.

2.3 The land lies within a cluster of residential properties comprised historic workers dwellings and agricultural buildings, some of which are in the process of being converted into dwellings.

2.4 For the purposes of planning policy consideration, the application site is located within Blackwood Ward, it is in Green Belt, and it is not in a Conservation Area, there are no Listed buildings/structures or protected trees which need to be considered. The site does back onto fields and there is no defined curtilage. The site sits below road level (as do the established cottages on this side of the lane) is relatively flat, the rear part of the site slopes away.

2.5 The site lies within the open countryside and is constrained by Green Belt designation.

2.6 The section of road fronting the site is adopted highway and it carry the route of a Public Right of Way (FP16 Chinley on the Derbyshire Definitive Map).

3. DESCRIPTION OF THE PROPOSAL

3.1 Full planning permission is sought to construct a replacement building on the site of a former agricultural building to be used as a 3 bedroom residential dwelling (part retrospective) to provide accommodation over two floors with associated driveway, parking area and garden. The barn which previously stood on the site had been approved for conversion under (HPK/2020/0152) A new boundary would be delineated by planting along the south side of the site which will form the new boundary between the domestic curtilage of the property and the rest of the field. This boundary is larger than the boundary approved when the former agricultural building was approved for conversion.

3.2 The ground floor external footprint measures 124sqm (6.5m x 17.50m plus a side garden store measuring 4m x 2.47m). The first floor measures 83.72 sqm (12.88m x 6.5m). The height of the two storey building measures 6.65m to apex.

3.3 The palette of material finishes will be blockwork with facing stone and slated roof.

3.4 There clearly has been an agricultural building on site historically (as shown on Google Earth images). The former agricultural barn was, when it's conversion was approved in 2020 (this permission was not implemented), previously described as a former historic threshing barn which lost its pitched roof and was truncated in height, with a smaller section alongside being lower in height with an open frontage to the road (as shown in the photographs that accompany the neighbour's objection). This has now been demolished and the part built structure is new build.

3.5 The application, supporting documents, and consultee comments can be viewed at

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=264871>

4. RELEVANT PLANNING HISTORY

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|------------------------|--|---|
| HPK/2017/0476 | Convert an existing agricultural barn into a single dwelling including parking and private garden space | Refused 9th April 2019 |
| APP/H1033/W/19/3231073 | HPK/2017/0476 | Dismissed - 5th Nov 2019 |
| HPK/2020/0152 | Proposed conversion of an existing (now disused) agricultural barn into a single dwelling, to include parking and private garden space | Approved - 14/08/2020 (But not implemented – because the building had been demolished. (as concluded when Enforcement team investigated) |
| HPK/2023/0068 | Erection of a stone building to provide a dwelling (part retrospective) and associated landscaping works | Refused |

5. PLANNING POLICIES RELEVANT TO THE DECISION

5.1 High Peak Local Plan (Adopted 2016)

S1 – Sustainable Development Principles
 S1a – Presumption in Favour of Sustainable Development
 S2 – Settlement Hierarchy
 S6 – Central Area Sub Strategy
 EQ2 – Landscape Character
 EQ3 – Rural Development
 EQ4 – Green Belt Development
 EQ5 – Biodiversity
 EQ6 – Design and Place Making
 EQ10 – Pollution Control and Unstable Land
 H1 – Location of Housing Development
 H3 – New Housing Development
 CF6 – Accessibility and Transport

5.2 Supplementary Planning Document

1. High Peak Design Guide Adopted 2018
2. Residential Design SPD2 Adopted 2005
3. Landscape Character SPD 2006

5.3 National Planning Policy Framework (2023)

Including sections -
 12: Achieving well-designed places
 13. Protecting Green Belt

15. Conserving and enhancing the natural environment

6. CONSULTATIONS CARRIED OUT

Public Consultation expiry date: 10/01/2024

Site Notice expiry date: 27/01/2024

Public Comments

Representations received, stating:

Neutral representation stating:

- Correct address is Land adjacent to Stubbins House at unnamed road from Stubbins Lane to Tithe Barn Farm, Chinley, Derbyshire SK23 6ED
- The site has never had a farmhouse on it.
- The current application indeed relates to a new build on land in the green belt
- Does the 6 panel Patio door on the South Wall comply with guidance?

Supporting representations received stating:

- At the moment it is an 'eyesore' with plastic and builders waste which affects/impacts the wildlife in our NR. It will be much better all round if building work resumes and this barn becomes a dwelling ASAP.
- It's obvious that aesthetically and environmentally the area will be improved if this project is finished.
- As long as it is in keeping with the surrounding houses (which it appears it will be) it will be a welcome addition to the lane and provide another home for our community.
- The current state of the land and delayed works has meant that despite best Attempts to secure materials on the site, extreme wind and other weather has occasionally led to some items being deposited into the neighbouring Nature Reserve. Having a completed home, or even an active building site, will vastly reduce the chance of this from happening moving forward.

Town / Parish Comments

Whilst Chinley, Buxworth & Brownside Parish Council would not normally support a new dwelling in the green belt in this location, given the site's history, the previous approval for conversion of the former barn, the submitted evidence of its deteriorating and dangerous structural condition recommending its demolition, and the attempt to largely replicate the form and appearance of the original barn, the Council has no objections to this application in this instance.

Highways Authority

Requested clarification with regards visibility splays:

I note this site has previously been given granted planning permission for conversion of an existing (now disused) agricultural barn into a single dwelling, to include parking and private garden space under reference HPK/2020/0152 and submitted drawing '20.404.6' was approved and was Conditioned accordingly but submitted drawing for HPK/2023/0541 'Landscaping 1263 Rev 3' shows an extended vehicle access onto a Public Right of Way (FP16 Chinley on the Derbyshire Definitive Map). So before the County Council can provide a formal response, the applicant must confirm (amended drawing) that the visibility splays Conditioned in HPK/2020/0152 (20) can be provided and maintained in perpetuity.

Following discussion with the applicant a further highway authority consultation response was received stating that the drawings are now considered acceptable in principle although it should be noted that in order to implement the scheme a separate construction approval process with the Highway Authority may be required which scrutinises construction details and will be necessary in order for the Highway Authority to enter into a Section 184 Licence for any works. Therefore, it is considered that this issue can be addressed by an appropriate Informative.

AES

Properties should be planned so bins can be stored within the property boundary and be moved to the presentation point without the need to go up or down steps or through the property. Garden gates need to be wide enough to accommodate a standard 240l wheeled bin. Although there is a plan for a bin storage area, the resident will be responsible for moving the bins from the storage area each week and moving the bins to the presentation point at the front of the property.

7. OFFICER COMMENT AND PLANNING BALANCE

Planning Policies

7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the High Peak Local Plan Policies Adopted April 2016.

7.3 Other material considerations include the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG). Paragraph 11 of the NPPF explains that at the heart of the Framework is the presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan, they should be approved without delay, but where the development plan is absent, silent, or relevant policies are out of date, grant planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

7.4 The application site lies within the Green Belt where restrictive development plan policies apply and accordingly Section 13 of the National Planning Policy Framework (NPPF) and Policy EQ4 are applicable. Policy EQ4 states that the Council will seek to protect the Green Belt and maintain its openness and permanence. Within the Green Belt, planning permission will not be granted for development unless it is in accordance with national planning policy.

7.5 Paragraph 154 of the NPPF states that Local Planning Authorities should regard the construction of new buildings in the Green Belt as being inappropriate. However, certain forms of development are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.

7.6 Local Plan policy S1a establishes a presumption in favour of sustainable development as contained within the NPPF.

7.7 Local Plan policy S2 defines this site as “other rural areas”, as such development will be strictly limited to that which has an essential need to be located in the countryside or comprises affordable housing in accordance with policies EQ3 and H5.

7.8 Local Plan policy EQ2 looks to resist development which would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement as identified in the Landscape Impact Assessment. New housing in the countryside will generally not be supported.

7.9 Local Plan policy EQ3 new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness. New development will be permissible for certain circumstances reflective of the exceptions listed in the NPPF.

7.10 Local Plan Policy H1 (Location of Housing Development) identifies that new housing should be provided on allocated housing sites in the Local Plan or a Neighbourhood Plan, promote the effective reuse of land, support housing on unallocated sites within the defined built up area boundaries, encourage housing in mixed use schemes, support development identified by community right to buy or build order and support self-build scheme. However, the Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other policies in this Local Plan, provided that:

- The development would adjoin the built up area boundary and be well related to the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and
- The development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside; and
- It would have reasonable access by foot, cycle, or public transport to schools, medical services, shops, and other community facilities; and
- The local and strategic infrastructure can meet the additional requirements arising from the development.

7.11 Policy H3 requires all new residential development to meet the requirements of affordable housing within the overall provision of new residential development set out in policy H4 and to provide a range of market and affordable housing types and sizes, whilst the mix should contribute positively to the promotion of a sustainable

and inclusive community taking account the characteristics of the existing housing stock in the surrounding locality.

Main Issues

7.12 The sole issue for consideration in this matter is whether the proposal is acceptable as a matter of principle having regard to both National and Development Plan policies.

Principle of Development

7.13 The site lies outside the built up area boundary within the Green Belt and Open Countryside.

Green Belt

7.14 Since the former barn was demolished, this is effectively a new build dwelling in the countryside. Paragraph 154 of the Framework says a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include:

d)) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; and

g) limited infilling or the partial or complete redevelopment of previously developed land¹, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. This advice is echoed in Policy EQ3 of the Local Plan.

7.15 The previous permission to convert to a dwelling was not implemented, thus the last use of the former building was agricultural. The development proposed cannot be considered under the para 84d exception, as a same use replacement. The definition of previously developed land specifically excludes land that is or was last occupied by agricultural building(s), so what is proposed cannot be considered under the para 84g exception.

7.16 As such the proposed development is considered inappropriate development that would be harmful to the Green Belt by definition and would result in a loss of openness.

7.18 Therefore the principle of development of a new dwelling on this site cannot be considered acceptable unless other material considerations create very special circumstances.

¹ Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. **This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.**

7.19 The planning history of the site confirms that the residential conversion of the former barn on the site had previously been considered to be acceptable. Normally development outside settlement boundaries would not be permitted but given the previous building being on site the principle of conversion was accepted. The NPPF recognises that, structurally sound existing buildings are appropriate exceptions and wherever possible, sites of this nature should be developed in preference to greenfield sites. Whilst it is appreciated that there is a history of a planning consent for residential development on this site, this cannot be complied with now that the barn has been demolished.

7.20 Previous inspectors on appeal have concluded that the fact that there has been an agricultural building on a site previously, with consent for conversion, does not constitute “very special circumstances” to justify a the construction of a new building dwelling the Green Belt, even where the dwelling would be a like-for-like replica of the previously approved barn conversion. In this case, as discussed below, the new dwelling would, in fact, be materially larger than the barn which formerly stood on the site.

Open Countryside / Sustainability of Location

7.21 Both national and local planning policies have an emphasis upon making decisions based upon the sustainability of the site for the proposal.

7.22 Local Plan Policy EQ3 sets the general context for development outside the settlement boundaries and sites allocated for development as defined on the Policies Map, including the Green Belt and identifies those exceptions to the presumption against development in such locations. These are set out in a list within the policy. The proposal is not a replacement dwelling, affordable housing, a farm workers dwelling, re-use of an existing building or limited infilling with a continuously built frontage. The proposal would not be in accordance with Policy H1 as it would NOT adjoin the built up area boundary or be well related to the existing pattern of development and surrounding land uses and would lead to prominent intrusion into the countryside which would have an adverse impact on the character of the countryside.

7.23 It could not be said to have reasonable access by foot, cycle or public transport to schools, medical services, shops, and other community facilities. It is considered that the site is relatively remote in terms of access to local services, facilities and public transport and future residents will be largely reliant on the use of a private car to access facilities. Paragraph 84 of the NPPF advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. Exceptions are listed however the site does not conform to any. Accordingly, no support for the proposals can be drawn from either the general context policy in the form of H1, nor the specific policies in the form of EQ2, 3 or 4 or the NPPF.

Conclusion

7.24 In summary:

- The application is not for conversion as the barn is demolished. It is a new dwelling in the Green Belt and is assessed under Green Belt policies which view the proposal as inappropriate development, unless there are very special circumstances that outweigh the harm
- It cannot be considered to be a replacement building, as the new building is not in the same use and is materially larger than the one it replaces (previous permission to convert the barn was not implemented).
- It cannot be considered under Green Belt exceptions for partial or complete redevelopment of Previously Developed Land (PDL), as buildings last occupied by agricultural are not considered PDL.
- The proposal is therefore an inappropriate form of development within the Green Belt and Open Countryside, which does not accord with LP Policies EQ2, EQ3 and EQ4 and Section 13 of the NPPF.
- There are no very special circumstances to outweigh the harm to the Green Belt and Open Countryside by way of inappropriateness and harm to openness.

OTHER MATTERS

Design & Visual Impact

7.25 Policy EQ6 refers to design and states that all development should be well designed and be of a high quality that responds positively to both its environment and the challenge of climate change, whilst contributing to local distinctiveness and sense of place. New development should be well designed to respect the character, identity and context of the High Peak's townscapes and landscapes. Development is expected to contribute positively to an area's character, history, and identity in terms of scale, height, density, layout, appearance, materials and the relationship to adjacent buildings and landscape features.

7.27 The NPPF requires the design of a development to add to the overall quality of an area, by being sympathetic to local character and by being visually attractive as a result of good architecture.

7.28 The proposed new dwelling will be 6.5 metres in height, the former barns roof sloped from 4.7m to 3.7m, the height and massing of the proposed dwelling is significantly materially larger than the former barn.

7.29 A representation received questioned whether the introduction of bifold glazing to a larger opening complied with design policy, whilst it is larger than the fenestration detailing on the rear elevation of the original barn, large panels of glazing infill are not uncommon features on converted rural buildings, as they utilise a characteristic of rural barns were they may have areas of open frontages.

7.30 The former barn was characterised by its simple, traditional nature, forming a significant part of its materiality. The surrounding properties located along the lane are further characterised by their traditional architectural detailing and simple form. The proposed development in terms of design and finished would appear to draw on these characteristics within the vicinity and respects the site's rural setting within the countryside and the character of the surrounding properties located along the Lane.

However, the replacement building is materially larger than the barn it replaces and as such would be visually and spatially larger, adding to the harm to Green Belt openness identified above.

Amenity

7.31 Proposals for new development will be expected to safeguard the quality of life for residents within the development and those living nearby and development which give rise to significant adverse impacts on health and quality of life will not be allowed.

7.32 Regard has been had specifically to the relative positions of windows on the western elevation, separation distances, the orientation and height of buildings and boundary treatments. It is considered that the proposal should not have an adverse impact on the residential amenity of the occupants of the neighbouring property.

Ecology

7.33 The application is located immediately adjacent to Stubbin Park Local Nature Reserve and Chinley Community Meadow Local Wildlife Site.

7.34 The barn has been demolished, building works commenced and no ecology report is submitted with the application. As there is no ecological evaluation, appropriate mitigation cannot be assessed.

7.35 A Supplementary Bat Survey report prepared by Dunelm Ecology dated August 2018 was submitted relating to the former barn (HPK/2020/0152). The report presents the results of one dawn re-entry survey and one dusk emergence survey carried out during June and July 2018. During the dusk emergence survey and it confirmed the presence of a Common Pipistrelle bat roost on the southern elevation of the building. The report rightly states that a Natural England licence will be required in order for the development to proceed without committing an offence and details of mitigation and compensation measures are provided in Sections 4.4.3 and 4.4.4 of that Supplementary Bat Survey report prepared by Dunelm Ecology dated August 2018.

7.36 For the purposes of that application the mitigation measures were accepted as outlined in Sections 4.4.3 and 4.4.4 of that Supplementary Bat Survey report prepared by Dunelm Ecology dated August 2018. Where ecology surveys and reports are over three years old CIEEM have advised that in the main, these would be considered to be out of date and it is likely that all of the surveys and associated assessment, would need to be updated. Had the proposals been acceptable an updated survey would have been requested to update the mitigation matters to accord with Local Plan Policy EQ5 and the provisions of Section 15 of the NPPF.

Trees

7.37 The mature trees to the eastern boundary of the field would not be affected by the proposals and can be protected during the construction period in accordance with the submitted Tree Protection Scheme.

Highway Safety

7.38 Proposals should minimise the need to travel, particularly by unsustainable modes of transport.

7.39 The lane is lightly trafficked. There is adequate parking and turning within the site and areas for bin storage and collection are indicated on the submitted drawings

7.40 The highway authority has requested an informative in order to implement the scheme a separate construction approval process with the Highway Authority may be required which scrutinises construction details and will be necessary in order for the Highway Authority to enter into a Section 184 Licence for any works. This is to control works connecting to the adopted highway, as there should be no detrimental effect on highway safety.

8 PLANNING BALANCE

8.1 The proposal includes built development where none currently exists, the barn having been demolished and a new dwelling partially rebuilt. It is recognised that there was a building on the site which ceased to exist due to its demolition, and since then there has been clear intent to erect a new dwelling on the site. The applicant did not implement the permitted residential conversion of the original barn for reasons within their control.

8.2 There is no disagreement that the land was occupied by a permanent structure. The proposed new building would however have a greater impact on openness as no lawful building currently exists on the site. In this respect the new building would, unavoidably, lead to a reduction in the openness of the Green Belt.

8.3 The development would not satisfy any of the exceptions in paragraphs 154 and 155 of the Framework and as such would amount to inappropriate development in the Green Belt which Paragraph 153 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework is clear that substantial weight should be given to any harm to the Green Belt. Previous Appeal decisions have concluded that the presence of a barn on a site, with permission for residential conversion, does not constitute very special circumstances to justify a new build dwelling in the Green Belt, even where the new dwelling would be a faithful replica of the previously approved barn conversion. In this case the proposed dwelling would be materially larger than the approved barn conversion which adds further to the Green Belt harm and additional weight against the proposal.

8.4 The development (as detailed on the submitted drawings) is a new dwelling in the Green Belt, as such considered inappropriate development in the Green Belt and with no special circumstances, considered contrary to the provisions of Section 13 of the National Planning Policy Framework and Policies EQ3 and EQ4 of the High Peak Local Plan 2016. The application is recommended for refusal.

9 RECOMMENDATION

A. That planning permission is REFUSED for the following reasons:

- 1. The proposal would represent inappropriate development in the Green Belt. It is considered that there are no very special circumstances that would outweigh the potential harm to the Green Belt by reason of inappropriateness. As such, the development would be contrary to the provisions of Policies S1, H1, EQ3, and EQ4 and of the of the High Peak Local Plan (2016) and the NPPF (2023).**
- 2. The development by reason of its scale would have a greater visual and spatial impact on the character of the countryside than the former barn. As such, the development would harm the character of the area, contrary to policy EQ2, EQ3, EQ4, and EQ6 of the High Peak Local Plan (2016) and the National Planning Policy Framework (2023).**

B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/ informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

INFORMATIVE

- 1. The local planning authority considers that the proposed development is unacceptable in principle. It has therefore not been possible to work with the applicant in a positive and proactive way to secure a development that will improve the economic, social and environmental conditions of the area in line with the NPPF.**

