

Design and Access Statement

Hazel Gill Farm

Background

This document has been prepared by Ashwood Design Associates in support of the planning application for the proposed change of use from an agricultural barn into a residential dwelling

The intent of this Design and Access Statement (DAS) is to address all challenges and opportunities of the site, and how these factors contributed to and influenced the proposed design. This document should be read in conjunction with all relevant documents and associated drawings of the application.

The Proposed development has been designed in light of the following criteria:

- The context of the immediate local vicinity.
- The client's brief.

Location

Hazel Gill Farm is located north of Caldbeck, along the B5299. It is just over 11 miles South West of Carlisle city centre.

The Proposal

The proposal has been formulated on the basis of a new dwelling formed in place of a partially dilapidated barn, which forms part of Hazel Gill Farm and is sited adjacent to the existing farm house. The proposed dwelling is to have three bedrooms and will become a home for the client to retire to.

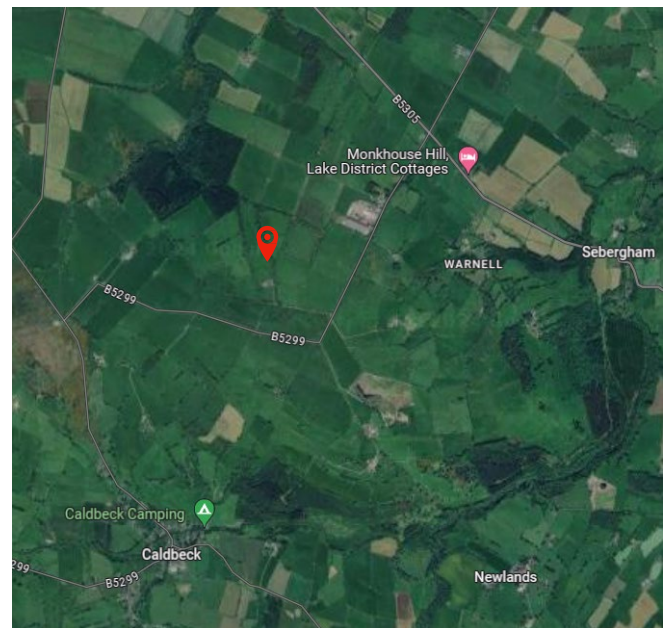


Figure 1- Aerial View depicting the site location in relation to Caldbeck, Cumbria.

Existing and past uses

The barns are currently used as agricultural storage, but previously formed part of a cow byre, of which some of the structure is still present today.

Footprint and massing

The footprint fits within the original footprint of the existing barns, lean to and cow byre. It has been designed to retain the shape and scale of the original barn, maintaining similar window openings where possible.



Aesthetics

The aesthetics of the development are to sit within the character of the existing property, with reclaimed sandstone to be used where possible and a slate roof. The approaching elevation would be the Northeast elevation, which mostly shows the Barn-like structure, with the 'extension' only really visible from the rear.



Access and Parking

Access and parking arrangements to remain as existing.

Conclusion

This Design and Access statement is to be read in conjunction with the accompanying drawings.

It is in joint efforts with the client, that have put together this proposal with firm belief that we have created the most suitable scheme. The development is to be done sensitively to the rest of the property, and to retain the character of the main dwelling.

Planning Statement

While it is noted that this is a new build not within a settlement boundary, the existing fallback position of the approved conversion should be taken into account when considering this application on the site.

In September 2017, a judgment in the case of *Mansell v Tonbridge & Malling Borough Council* [2017] EWCA Civ 1314 was handed down by the Court of Appeal. The case concerned the grant of planning permission for four houses on land currently occupied by an existing bungalow and a large agricultural building. In granting consent for four replacement houses, the Council took into account the fact that the barn could be converted to three houses under Class Q (agricultural to a residential dwelling) of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("Class Q"). A nearby resident was unhappy with the decision made and bought a Judicial Review. The consent was initially quashed by the High Court, but reinstated by the Court of Appeal, who found it was legitimate for the Council to grant the consent, even though no application to convert the barn had been made.

The Court of Appeal held in *Mansell*, the fact that a building could be converted (the "Fallback position") is a material consideration when considering a proposal for a new house or houses, provided that there is a realistic prospect of such development going ahead. Where such consent exists, or could reasonably be granted, then it is possible to design a brand-new house and present a case to a Local Authority that there are benefits ("a betterment") in planning terms over and above any generated from the existing conversion.

When originally granting permission, the officer stated in his report:

"In making an assessment of any application for development, we are bound to consider what the alternatives might be for a site: in terms of what could occur on the site without any permission at all (historic use rights) or using permitted development rights for alternative forms of development".

At the Court of Appeal, legal counsel for the appellant argued that the evidence did not demonstrate a real prospect as opposed to merely a theoretical prospect of such a development being carried out. He claimed that the judge should have recognised that the fallback development referred to in the officer's report was not a material consideration. In responding, the judge stated:

"I cannot accept that argument. In my view the officer did not misunderstand any principle of law relating to a fallback development. His advice to the members was sound. The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar...in this case...it was plainly appropriate, indeed necessary, for the members to take into account the fallback available to the East Malling Trust as the owner of the land, including the permitted development rights arising under Class Q in the



GPDO and the relevant provisions of the development plan. Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law.”

The relevant legal principles relating to fallback were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fallback test:

“First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is “yes” a comparison must be made between the proposed development and the fallback use.”

An increasing number of determinations across the country have since recognised the fallback position as a legitimate material consideration. In the appeal case 3248009, the Inspector found in favour of the appellant and judged that, new dwellings would produce a better result than a fallback option allowing for a barn’s residential conversion. The Inspector found:

“However, there is a realistic fallback position which would result in the same amount of housing being delivered in the same location, and in these circumstances, I afford the conflict with the development plan moderate weight. The appeal proposal would however deliver significant benefits to the appearance of the site compared to that fallback position, and this carries significant weight in favour of the appeal proposal. Overall, taking account of the Framework and the above considerations, I find that the benefits of the proposed development compared to the identified fallback position are a material consideration which outweighs the conflict with the development plan and justifies granting planning permission for the proposal. Consequently, I conclude that the appeal should be allowed.”

Therefore it is considered that the fact that there is already a residential property approved on the site should be factored into the decision-making process on this application. The applicant wishes to commence with a new build rather than the approved conversion, due to the additional cost and time of bringing the structure up to habitable standard. It also allows them the opportunity to improve the proposed internal layout to provide better amenity and a more useable home.

Whilst the conversion would be done to meet building regulations, the energy efficiency of a salvage and redevelopment scheme versus a conversion are incomparable. Whilst it is noted that reusing existing structures largely means that the build meets certain sustainability criteria through lack of new materials to be brought onto the site, the proposed still aims to reuse and reclaim as much of the original material as possible. Therefore, the dwelling will be of heightened sustainability values due to the reuse of existing material and the increased energy efficiency and airtightness that is afforded to new builds.



Sustainability is at the forefront of this proposal. Reusing existing stone and slates where possible reduces the energy and environmental impact of extraction of materials. The proposed is to be a timber frame build, which will be constructed by Edge Timber Frame, a local company located in Penrith. Edge has the PEFC UK certification, which recognises them as using only sustainably managed forests to source their materials. They also have Structural Timber Association (STA) Assure Gold, STA Site Safe, CATG Frame Mark and ISO:9001.

The proposal has been developed with the existing character in mind, by replicating what is existing, and upgrading it to meet modern standards. The purpose of this, is to ensure that the character of the local area is respected and remains intact.

This Fallback Position has been accepted by Local Authorities, such as Copeland in the attached decision (4/22/2216/0F1).

