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Planning Development Rights of Way

Planning Statement: Hey Moor House, Abbey Road, Shepley

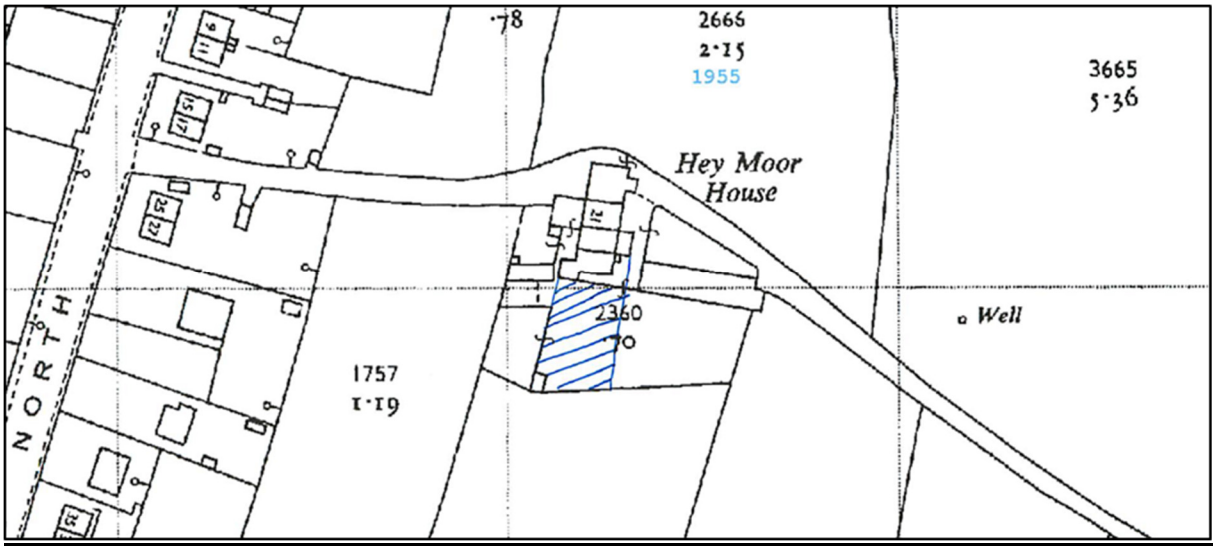
Introduction

This application for planning permission follows the refusal of a Certificate of Lawfulness application for a similar development on 1st April 2016 (LPA ref: 2016/90196).

That application sought to establish the lawfulness of a proposed detached garage under Class E of the Town & Country Planning (General Permitted Development) (England) Order 2015.

The sole reason for the Certificate being withheld related to the garage being set forward of what the Council deemed to be, on the balance of probability, the principal elevation of the original building (in 1948).

A meeting between the Council and ourselves (as agents for the applicant) on the 13th April established on a without prejudice basis, that Class E rights would apply for a garage of the same dimensions as previously applied for under the CLPD application, on the area of curtilage identified below, hatched blue (subject to the 2m set back from the boundary).



1955 OS plan (courtesy of KMC) showing area where Class E PD rights would apply

Fall-back position

Our client has stated that he would build the garage within the blue hatched area under permitted development rights if all else failed, because he requires the garaging facilities for the storage of vehicles in connection with an important interest / hobby. The chosen position would most likely be 2 metres from the eastern boundary of the rear garden, with the garage doors facing west. The alternative would be to move house, which our client quite naturally loathed to do.

There is consequently more than a "theoretical possibility" [1] that the fall-back position would be implemented and this therefore represents an important material planning consideration against which the current proposals should be judged.

New Proposals

Following discussions with the Council, this application seeks planning permission for a garage in a similar position to that applied for under the CLPD application, but 20% shorter in length (removing one of the five garages) and with a position a little further away from the main house.

Merits of the current scheme

- The garage would be smaller and better positioned than the realistic fall-back option available through Class E permitted development rights.

- The impact of the proposed garage on the visual amenity and openness of the Green Belt would be less than that available under PD rights. This is because:

    a) the ground level of the proposed garage position is lower than other parts of the garden;
    b) the garage would be screened more effectively by existing buildings and trees; and
    c) no additional access road would be required in the current position.

- The scale of harm that would arise compared to the fall-back position was also cited as a material planning consideration in the *Gambone* case.[2] As demonstrated by the above points, the current proposals would be less harmful to material planning factors than the Class E fall-back position.

- The distance between the position available under PD rights, compared to the current proposed position is a mere four metres.

- The garage has been moved further away from the main house, to enable the two buildings to be viewed as separate entities.

[1] Paragraph 25 of Gambone v. Secretary of State for Communities and Local Government and Wolverhampton City Council [2014] EWHC 952 (Admin)
[2] Paragraph 26

- The sole reason for the CLPD application failing related to the 'principal elevation' factor. However, in this instance the reasoning behind this aspect of the law is redundant because Hey Moor House is set back from the highway by a considerable distance, behind a row of houses fronting Abbey Road. Any visual harm perceived by this legislation in relation to buildings sat forward of a principal elevation, does not exist in this case.

Finally, the materials of construction are intended to be natural stone walling and Greys artificial stone slate, to match the host dwelling and maintain local character / identity.

Based on fulfilling the above criteria, it is considered that the proposed development would not materially impact on the openness or visual amenity of the Green Belt, particularly when viewed against material planning considerations relating to available options available under permitted development rights.

Finally, our client would be prepared to accept a condition removing permitted development rights for further extensions and outbuildings on this property, if the Council deemed this necessary to support the current application.

Please do not hesitate to contact us should you have any queries.

Nick Willock MRTPI MRICS

April 2016