



Appeal Decision

Site visit made on 14 July 2020

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/H1033/W/20/3251385

Land adjacent 87 Chapel Road, Whaley Bridge SK23 7EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out 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 HPK/2019/0573, dated 20 December 2019, was refused by notice dated 26 February 2020.
 - The application sought planning permission for the construction of a single detached dwelling without complying with a condition attached to planning permission Ref HPK/2015/0525, dated 17 December 2015.
 - The condition in dispute is No 2 which states that:
2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2015.004.01.H, 2015.004.02.H, 2015.004.03.H, 2015.004.04.H, 2015.004.05.H, 2015.004.06.H, Proposed 2015.004.07.H, 2015.004.08.H, 2015.004.09.H, 2015.004.10.H, 2015.004.11.H, 2015.004.12.H, 2015.004.13.H, 2015.004.14.H and 433/P/02.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single detached dwelling at land adjacent 87 Chapel Road, Whaley Bridge SK23 7EP in accordance with application Ref HPK/2019/0573 without compliance with condition number 2 previously imposed on planning permission Ref HPK/2015/0525, dated 17 December 2015, subject to the schedule of conditions to this decision.

Procedural Matters

2. Amended drawing 3257 – 20F was submitted with the appeal and is referred to in the Council's list of suggested conditions. However, it is not clear that the amended plan has been subject to consultation and as such I cannot be satisfied that no parties case in the appeal would be prejudiced by my consideration of them. I have therefore determined the appeal on the basis of plan 3257 – 20E upon which the Council made its decision.
3. The Council's decision notice states that the proposal is retrospective and during my site visit I could see that the dwelling was nearing completion. However, the first floor windows that are the subject of this appeal were

located differently, and partially boarded up. Therefore, for certainty I have considered the appeal on the proposals detailed in the application.

4. The address on the original planning permission (Ref. HPK/2015/0525) which the appellant seeks to amend, is land adjacent 87 Chapel Road, Whaley Bridge. This more accurately describes the location of the appeal site, for consistency I have used this in the banner heading above.

Background and Main Issue

5. The development that has taken place has breached condition No 2 which requires that the development shall be carried out in accordance with the approved plans. The appellant is seeking to vary the condition to change some of the plans to reflect amendments to the development.
6. The main issue is the effect of modifying the approved plans condition on the character and appearance of the building and the surrounding area, with particular regard to window and door openings.

Reasons

7. The appeal site is located on Chapel Road, to the south east of Whaley Bridge. The prevailing character and appearance of the area consists of two storey residential properties constructed in buff coloured gritstone with tiled pitched roofs, with various gables positioned to the sides, rear and front elevations.
8. The elevations of the appeal building are to be constructed in a buff coloured gritstone, with stone windowsills, lintel details, and a tiled gabled roof. The overall appearance of the building has been designed so that it would be in keeping with the prevailing character and appearance of the area. The appeal site is in an elevated position and screened by mature trees and woodlands to the side and rear.
9. The proposal is to vary the originally permitted scheme (Ref HPK/2015/0525) by inserting two Juliet balconies at the first floor, and bi-fold doors at the ground floor level of the side gable, amongst other minor changes.
10. Whilst the Council considers that the gable ends of properties in the area are traditionally blank, the appellant's statement has directed me towards numerous examples for comparison within the vicinity of the site. Based on the evidence before me, supported by my observations of the area during the site visit, openings of similar positioning, scale and design are not uncommon on the area.
11. The first floor Juliet balconies would have a more vertical emphasis than windows on other elevations, however they would be evenly spaced and provide a sense of symmetry. Even taking into account the ground floor bi-fold doors the elevation would remain predominantly solid and appear well balanced. Also due to the orientation of the building, these would be located on a secondary elevation, as the front elevation facing the road, emphasised by the porch would clearly read as the principal elevation. Therefore, the proposal would be consistent with the guidance contained within High Peak Design Guide (2018).
12. Whilst in an elevated position, and at a gateway to the village, the trees and woodlands to the side and rear would provide significant screening from

Chapel Road and properties on The Coppice at the rear. I have considered the effect of seasonal variations in foliage, however, even when the trees are bare the trunks and branches would likely restrict views. This is further supported by the photographs provided in the appellant's statement. The orientation of the building and its distance from the road and surrounding properties, also convince me that the windows would not appear incongruous within the street scene or from surrounding properties.

13. The Council officer's report and local residents note the removal of the chimney and other window revisions on the proposed plans. However, based on the evidence before me, there are no substantive reasons why these amendments would cause harm the character and appearance of the building or the area.
14. Therefore, I conclude that the proposed siting, size and design of the revised window and door openings would not harm the character and appearance of the building and surrounding area. It accords with Policy EQ6 of the High Peak Local Plan 2016, which seeks to ensure that development is of high quality design, that respects local context and integrates within its surroundings. It is also consistent with the design objectives and guidance set out in the High Peak Design Guide (2018) and paragraph 127 of the Framework.

Other matters

15. I note local residents' concerns with regards to overlooking of properties on The Coppice. However, based on the evidence provided these properties are a substantial distance away. Furthermore, the Council have not raised concerns, and I have no good reason to conclude otherwise.
16. I have taken into account residents' concerns with regards to the significance of the amendments, and that development was not carried out in accordance with the originally approved plans. However, S73A of the Act provides for such minor material amendments to be made. In my view, based on the evidence provided, I am satisfied that the proposal would not modify the development in a way that makes it substantially different from that set out in the application, neither would the proposal prejudice the interests of third parties, and for the reasons given above the proposal would not result in any material harm.
17. I note the concerns raised with regards to wildlife, the felling of trees to construct the house, and the proximity of other protected trees. However, based on the evidence before me these would not be affected. The Council have not raised concerns and have recommended conditions for tree protection, and wildlife mitigation measures. Based on the evidence before me I have no good reason to conclude otherwise.
18. I have considered the local residents' concerns with regards to noise and disturbance and light. However, there is no evidence before me of such harm, the Council have not raised such concerns, and I have no good reason to conclude otherwise. This does not alter my findings.

Conditions

19. Planning Practice Guidance (PPG) makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the previous planning permission, unless they have been already been discharged.

20. The Council has suggested conditions, generally incorporating those from the original permission (Ref. HPK/2015/0525), and details agreed under the associated conditions (Ref. DOC/2018/0100). I have where necessary amended the wording in the interests of precision. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties outside of this appeal process
21. The development has already commenced and is substantially completed. Therefore, I have not included conditions for time limits, materials to be used in the construction of the external surfaces, or for a badger survey.
22. In addition to the condition that specifies approved drawings to provide certainty, conditions relating to landscaping, boundary treatments, levels and tree protection measures are necessary in the interests of the character and appearance of the area. Conditions relating to hours of construction work, the foundation and site method statement, and drainage are necessary to ensure the suitable operation during construction and that the site is satisfactorily drained. Conditions relating to access, parking and gating are necessary to ensure suitable access and highway safety. Conditions relating to trees and wildlife are also necessary to ensure the preservation of protected trees and species.
23. The windows and doors are located differently on the application plans to those constructed at the appeal site. Therefore, for certainty I have included a condition for window details.

Conclusion

20. For the reasons given above the appeal is allowed.

R Cooper

INSPECTOR

SCHEDULE

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 3257 – 20E - Proposed Plans and Elevations, 2015.004.03.H, 2015.004.04.H, 2015.004.05.H, 2015.004.06.H, 2015.004.07.H, 2015.004.08.H, 2015.004.09.H, 2015.004.10.H, 2015.004.11.H, 2015.004.12.H, 2015.004.13.H, 2015.004.14.H and 433/P/02.
2. All planting, seeding or turfing contained in the approved details of landscaping, as detailed on Planting Plan Drawing No. 433-P-02 and the Hard Standing and Amenity Space Drawing No 2015-004-13-H, shall be carried out in the first planting season following the first occupation of the building and no later than 12 months of that occupation. Any trees or plants which within a period of 5 years from the completion of the approved scheme die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

3. The boundary treatment shall be completed in accordance with the approved plan 3257 02 Rev F, before the building is occupied or in accordance with a timetable agreed in writing with the Local Planning Authority.
4. Within 3 months of the date of this decision, details of windows and doors, including glazing bar details at 1:2, together with details of the door joinery, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.
5. The development hereby approved shall be completed strictly in accordance with the Foundations and Site Works Method Statement Rev B, dated 19th December 2018 and the Drawing No 2015.004.10J.
6. Construction works shall take place only between 0800 to 1900 hours Mondays to Fridays, 0800 to 1600 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
7. The surface water drainage serving the development hereby approved shall be carried out in accordance with the approved Soakaway Calculations Document (Sidebotham, 28th February 2019).
8. The existing vehicular (and pedestrian) access to Chapel Road shall be permanently closed with a physical barrier and the existing vehicle crossover reinstated as footway (or verge) in accordance with Revised Block Plan Drawing No. 3257 – 02F.
9. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application Drawing No. 2015.004.03.H for the parking of vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
10. The car parking spaces hereby permitted shall be provided prior to occupation and retained as such and shall not be used for any purpose other than the parking of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.
11. Prior to the first use of the access, measures to prevent the discharge of water from the development onto the highway shall be undertaken in accordance with Drawing No. 2015.004.09J and maintained in line with the submitted Method Statement. Setts shall be laid in such a way that they are not bound. The approved scheme shall be retained thereafter for the life of the development.
12. There shall be no gates or other barriers within 6m of the nearside highway boundary and any gates shall open inwards only unless otherwise agreed in writing by the Local Planning Authority.
13. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the completion of the development hereby

permitted shall be replaced with trees, shrubs or hedge plants of similar size and species until the Local Planning Authority gives written consent to any variation.

a) All tree felling and pruning works shall be carried out in full accordance with the approved tree protection scheme and the requirements of British Standard 3998: 2010 - Recommendations for Tree Works:

b) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

c) No fires should be lit within 6m of the furthest extent of the canopy of any tree or tree group to be retained as part of the approved scheme.

d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

e) No development or other operations shall take place except in complete accordance with the approved protection scheme and Arboricultural Method Statement.

14. The mitigation measures detailed within section 6.1 Mitigation Measures contained within the Ecology Survey Report (Kate Priestman Limited 0035-001, Issue 1 August 2015) shall be carried out in full prior to the first occupation of the development hereby approved or in accordance with an approved timetable to be agreed in writing with the Local Planning Authority.

SCHEDULE ENDS