



Appeal Decision

Site visit made on 4 January 2021 by L Wilson BA (Hons) MA MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2021

Appeal Ref: APP/H1033/D/20/3262029

16 Riverbank Way, Glossop SK13 8SN

- 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 and Mrs Gallagher against the decision of High Peak Borough Council.
 - The application Ref HPK/2020/0285, dated 18 July 2020, was refused by notice dated 14 September 2020.
 - The development is a proposed single storey extension to the rear and changes to patio, steps and regrading of rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed single storey extension to the rear and changes to patio, steps and regrading of rear garden at 16 Riverbank Way, Glossop SK13 8SN in accordance with the terms of the application Ref HPK/2020/0285, dated 18 July 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. I noted on my site visit that work had commenced. For the avoidance of doubt, I have assessed the appeal proposal and based my decision on the plans before me.
4. I have sought clarification regarding the proposed height of the raised patio and regrading of the garden. The appellant has submitted further information in this regard. The Council has been sent a copy of the additional evidence and I do not consider that any party would be prejudiced by my acceptance of the additional evidence which does not amend the scheme but simply clarifies the nature of the proposal. I have therefore had regard to this additional information.
5. I note that the neighbouring fence does not appear to be drawn accurately on the drawings and cross sections of the patio area appears to be shown higher than it actually is. However, I am satisfied that the revised plan is sufficient to accurately depict the proposed height of the patio and I have assessed the

proposal having regard to that information, taking account of the height and position of the fencing as it exists on site.

Main Issue

6. The effect of the proposal upon the living conditions of the occupiers of Nos. 17 and 19 Shropshire Drive (No. 17 and No. 19) and Nos. 14 and 18 Riverbank Way (No. 14 and No. 18), having regard to overlooking.

Reasons for the Recommendation

7. The appeal property is a two-storey detached dwelling situated within a residential area. There are land level differences within the local area and the front of the appeal site sits higher than the rear. The rear garden is broadly triangular and shares boundaries with a number of properties.
8. The rear garden previously contained a raised patio area which the Council state was unauthorised. Although there is nothing to indicate that the Council considered taken any action regarding the previous patio, I have not given significant weight to its presence.
9. The extension would have a depth of 3 metres and would extend across the full width of the appeal property. Steps are also proposed which would allow access to a new elevated patio which would have a depth of approximately 2.1m and extend the full width of the proposed extension.
10. The High Peak Borough Council Local Development Framework: Residential Design Supplementary Planning Document (2005) (SPD) states that as a guide, a distance of 21 metres between habitable room windows of adjacent properties will provide an acceptable level of amenity and those distances shall increase where there are changes in levels. The SPD acknowledges that strict application of these standards can restrict a creative response to site layout and therefore the Council is open to a flexible approach based upon design principles rather than standards.
11. Nos. 17 and 19 are located to the rear of the appeal site and they sit noticeably lower than the appeal property. The rear windows of Nos. 17 and 19, apart from No. 17's conservatory, are orientated away from the appeal site and do not directly face the appeal property.
12. The Council highlight that at its closest point the extension would be approximately 9m from the conservatory of No. 17 and approximately 17m from the rear elevation of No. 19. Whilst this is significantly below the 21m guidance contained within the SPD the appellant has submitted a diagram showing that the distance from the existing lounge window would not be dissimilar to the distance of the centrally located French doors proposed. The appellant also highlights that the current distance between the rear of the appeal property and No. 17 is less than 21m and that the extent of glazing to the ground floor would be reduced.
13. Although the extension would sit closer to Nos. 17 and 19, I am content that it would not result in undue overlooking, having regard to the centrally located glazing and the current views afforded from both the ground floor and first floor windows. Due to the orientation of Nos. 17 and 19, the centrally located glazing would not directly overlook the windows of these properties.

14. No. 17's garden is also triangular and the garden area directly to the rear of the appeal site contains sheds and as such it is not an area of amenity space which would be used frequently compared to the patio area adjacent to the rear of the property. I observed on my site visit that the existing vegetation and No. 17's sheds restrict views into the garden area of No. 19. The boundary fence also to a degree restricts views into the garden of No. 17. Based on the evidence presented, I am not convinced that the extension would result in undue overlooking of the rear gardens of Nos. 17 and 19 given the location of the proposed glazing, current use of the garden area directly to the rear of the appeal site, intervening distance and boundary treatment.
15. The proposed steps would not be large enough for table and chairs and would serve as an area to simply access the proposed patio and garden rather than an amenity space area. Consequently, any views from using the steps would be fleeting and would not adversely affect privacy to an unacceptable degree. The patio would be elevated and sit higher than Nos. 17 and 19 but it would be stepped down from the rear extension and would be considerably lower than the patio that is currently on site. Patios by their nature are not an area which would be used daily, for example they are often not used within the colder winter months, whereas the existing lounge would be used daily. Furthermore, as patios are generally used as an area to sit, the eye level of a person sitting on the patio would be lower than if they were stood.
16. Based on the evidence presented, the steps and patio area would not increase overlooking to a degree that would have an unacceptable effect and would not have an undue effect on privacy of the occupiers of Nos. 17 and 19 due to the proposed height of the structure, the existing boundary treatment and extent of existing mutual overlooking. I am satisfied that the proposed development would not adversely effect the living conditions of the occupiers of Nos. 17 and 19 to a degree that would warrant planning permission being refused, particularly in a residential estate such as this where a degree of mutual overlooking is common.
17. Nos. 14 and 18 are located to the side of the appeal property. No. 14 sits further forward in its plot than the appeal property and has a conservatory to the rear which has views of the appeal property's garden. At present there is mutual overlooking between the appeal site and No. 14 from the rear gardens and rear windows given the low boundary fence and land level differences.
18. The existing boundary treatment shared with No. 18 is higher. The height of the boundary treatment would ensure that the scheme would not result in an unacceptable loss of privacy to the occupiers of No. 18.
19. The extension does not include any side windows and consequently would not result in any overlooking of No. 14. Views of the rear garden and rear windows of No. 14 would be possible from the steps and patio. However, alike the conclusions above, the proposed steps and patio would not have an unacceptable effect upon No. 14, because the existing boundary treatment would provide some screening and given the existing mutual overlooking. Based on the evidence presented and given the nature of a patio's use, a good level of privacy would be maintained.
20. For those reasons the proposed development would not have an unacceptable effect upon the living conditions of the occupiers of Nos. 17 and 19 and Nos. 14 and 18, having regard to overlooking. Accordingly, it would not conflict with

Policy EQ 6 of the High Peak Local Plan (2016), the SPD and the Framework which collectively seek, amongst other matters, to ensure new development is well designed and achieves a satisfactory relationship with neighbouring properties to avoid undue harm.

Conditions

21. Work has already commenced and therefore the statutory commencement condition is not necessary. A condition is necessary in the interests of certainty to ensure that the development is carried out in accordance with the approved plans.
22. The Council has suggested two conditions relating to the rear garden levels and side windows. The appellant has also suggested a similar condition concerning the levels of the rear garden. To ensure that the development would not have an unacceptable effect upon the living condition of occupiers of neighbouring properties, a condition is necessary to ensure that the existing patio is removed and the height of the new patio is carried out in accordance with the submitted drawing. Similarly, a condition is necessary to ensure that the garden levels are agreed with the Council.
23. Condition 1 would ensure that the development is carried out in accordance with the approved drawings. However, it would not prevent side windows being inserted in future. I note that permitted development rights have been removed in relation to the estate, but it is not clear precisely which rights have been removed and whether that would prevent the insertion of windows in future. There is nothing to suggest that the appellant intends to undertake such work, but intentions of any future occupiers may change, and I am satisfied that the condition is necessary to safeguard the living conditions of neighbouring residents.

Conclusion and Recommendation

24. For the reasons given above I recommend that the appeal should be allowed.

L M Wilson

APPEALS PLANNING OFFICER

Inspector's Decision

25. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should be allowed subject to the conditions attached.

Chris Preston

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: page No: 01 Rev 0 (cover page), page No: 03 Rev 0 (proposed elevations), page No: 04 Rev 0 (existing and proposed GF plans), page No: 05 Rev 0 (existing and proposed site plans), page No: 06 Rev 0 (existing and proposed section AA), page No: 08 Rev 0 (proposed section BB), page No: 09 Rev 0 (patio dimensions), page No: 10 Rev 0 (patio comparison existing and proposed), page No: 10 Rev 0 (comparison of patios) and page No: 11 Rev 0 (location and site plans).
- 2) The extension hereby approved shall not be occupied until the existing built patio has been removed or replaced. The new patio height shall be carried out in accordance with the following approved plan: page No: 10 Rev 0 (comparison of patios).
- 3) The extension hereby approved shall not be occupied until the garden has been regraded in accordance with details of the proposed finished garden level that have first been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels.
- 4) Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015, no windows shall be inserted into the side elevations of the extension hereby approved.