



Appeal Decision

Site visit made on 1 March 2022

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2022

Appeal Ref: APP/H1033/W/21/3282828

3 Lake View, Furness Vale, Derbyshire SK23 7QD

- 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 Jim Medway against the decision of High Peak Borough Council.
 - The application Ref HPK/2021/0204, dated 8 April 2021, was refused by notice dated 22 June 2021.
 - The development proposed is retrospective application for a single storey shed.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the Council's Decision Notice. It is considerably shorter and more accurate than that on the application form. I am satisfied neither party has been prejudiced by this course of action.
3. If a person wishes to ascertain whether an existing or proposed use or development is lawful, then the correct approach is for them to make an application under section 191 or 192 (as appropriate) of the Town and Country Planning Act 1990 (the Act) for a Certificate of Lawful Use or Development. There is a right of appeal against a refusal of such an application. I understand an application has been made previously, but not appealed.
4. Within the context of an appeal under section 78 of the Act (this appeal) it is not within my remit to formally determine whether this development requires planning permission as claimed by the applicant. If the appellant wishes to ascertain whether the development is lawful, an application should be made under section 191 or 192 of the Act and has the right of appeal should the application be refused.

Main Issue

5. Based on the above, the main issue in this appeal is the effect of the development on the character and appearance of the area.

Reasons

6. The appeal property is one of a row of terraced houses, with access taken from an unadopted road, and a canal located to one side. Many of the properties have adapted the private land between the access road and the dwellings into vehicular parking for the properties.

7. The appeal proposal seeks the retention of a shed that has been constructed at the appeal dwelling in the area between the access road and the dwelling, measuring approximately 3.3 x 3.6m with an overall height of 2.5m.
8. The site is located outside of the built-up area, and as a result development is controlled via Policy EQ3 of the High Peak Local Plan (the LP) in order to protect character and distinctiveness. These standards of design are reinforced in the High Peak Design Guide.
9. The structure detracts from the setting of the terraced properties, the large amount of wooden construction at odds with the proportions and character of the properties. It is extremely prominent when seen from the approach to the terraced properties and detracts from their setting and surroundings. This sets the proposal at odds with the policy intended to protect and reinforce character.
10. As such, I find the proposal contrary to policies EQ3 and EQ6 of the LP that expect development, amongst other matters, to contribute positively to an area's character. In addition, it fails to respect the guidance in terms of design set out in the High Peak Design Guide and the design chapter of the National Planning Policy Framework.

Other Matters

11. As stated previously, it is not within my remit to look at the merits of whether this is Permitted Development or not, as this is a section 78 appeal under the Act, and any such matters should be dealt with by the parties through a Lawful Development Certificate application and any subsequent appeal. This addresses specific matters in the letters of support that have been received.
12. I understand the reasoning behind the construction of the shed in terms of allowing additional private space for the family and an area for working on projects, but I find that the harm created by the structure by its incongruous nature outweighs the positives that the structure brings.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR