



Appeal Decision

Site visit made on 28 June 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/H1033/W/21/3289970

78 Buxton Road, Whaley Bridge, High Peak SK23 7JE

- 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 M Hagan against the decision of High Peak Borough Council.
 - The application Ref HPK/2021/0485, dated 5 August 2021, was refused by notice dated 30 December 2021.
 - The development proposed is described as 'Proposed conversion of stone outbuilding into single bedroom accommodation with associated internal works using existing footprint'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In making the appeal the appellant has referred to the reason for the appeal is that the LPA has failed to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval. This is clearly an oversight on the appellant's part and I consider the appeal to be for the refusal of planning permission for the development proposed in the banner heading above. I have determined the appeal on this basis.

Main Issues

3. The main issues are;
 - Whether the proposed development would preserve or enhance the character and appearance of the Whaley Bridge Conservation Area.
 - The effect of the proposed development on the living conditions of occupiers of neighbouring properties, with particular regard to privacy and the amount of private outdoor amenity space, and whether satisfactory living conditions would be provided for future occupiers of the proposed development, with particular regard to internal room sizes.
 - The effect of the proposed development on highway safety.
 - Whether the proposal would provide adequate safeguarding of protected species.

Reasons

4. The appeal relates to a single storey garage that sits within the rear garden area of 76-78 Buxton Road. This building has been converted into 1 dwelling

and is half of a pair of large semi-detached properties. It is also located in a predominantly residential area adjacent to Linear Park and within Whaley Bridge Conservation Area (WBCA).

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the WBCA.
6. The WBCA Character Appraisal, 2008 (CACA) identifies the main characteristics of WBCA to include its stock of well-preserved historic buildings, the topography of the area providing long distance views across the valley, and the close relationship between buildings and surrounding countryside.
7. The site is within Sub-Area 5 as defined within the CACA. In so far as this appeal is concerned, and on the basis of the evidence before me, I consider that the significance of this part of WBCA to derive from the historic properties, their detailing, the linear pattern of development and the medium to lower density of development in this area. The former Cromford and High Peak railway line, which is now a footpath and known as Linear Park, also positively contributes towards the spacious landscaped setting and character and appearance of this part of the WBCA.
8. On my site visit I noted that the majority of dwellings along the eastern side of Buxton Road, including Nos 76-78, and in the immediate vicinity are set out in a clear linear manner. I also saw that a number of these properties had detached outbuildings that are of smaller scale and ancillary in character within their rear garden areas. The appeal site in its current form, which includes the 2 storey Victorian dwelling, its medium density plot, and single storey garage, thereby positively contributes to the significance of the WBCA.
9. However, the siting and orientation of the proposed dwelling to the rear of Nos 76-78 would be at odds with the prevailing pattern of linear development. Whilst its openings would remain largely the same, the increase in scale to provide a first floor and roof, along with the introduction of a dormer, would increase the built form and the density of development across the site. This would appear as a bulky and conspicuous feature in comparison to the smaller scale and relatively simple form of the existing ancillary buildings nearby. It would also compete with the status of No 76-78 and nearby neighbouring houses in the WBCA.
10. Whilst I was unable to locate any trees within the appeal site, my site observations confirmed that there are mature trees adjacent to the site that overhang the roof of the existing outbuilding. These trees, along with others in the vicinity positively contribute to the landscaped character and appearance of the WBCA. However, I have little substantive evidence to demonstrate that these mature trees would be adequately protected during or after the construction of the development. In the absence of any firm evidence to the contrary I am therefore unable to be certain that the proposal would not harm the future health of these trees, and thus cause further harm to the WBCA.
11. The overall discordant effect of the proposal would be plainly visible from the large gap in between the appeal site and 74 Buxton Road. It would also be seen from the nearby Linear Park and from a number of neighbouring properties. As a consequence of the factors above, it would have a materially harmful effect on the significance of the WBCA.

12. Nonetheless, I consider the harm that I have identified above would be 'less than substantial'. Paragraphs 199 and 200 of the National Planning Policy Framework (the Framework) explain that great weight should be given to the conservation of a designated heritage asset, and any harm requires clear and convincing justification. In paragraph 202 of the Framework, it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that this harm should be weighed against the proposal's public benefits. However, no public benefits associated with the proposal have been put forward to be weighed against this harm.
13. As a consequence of the factors above, I therefore find that the proposed development would not preserve or enhance the character and appearance of the WBCA. As such it conflicts with Policies S1, EQ6 and EQ7 of the High Peak Local Plan (Local Plan) 2016, which, amongst other things, require developments to take account of and be well designed to respect the distinct Peak District character of different areas and settlements. They also seek development to contribute positively to an area's character and identity in terms of layout, appearance and the relationship to adjacent buildings and landscape features, and to protect and enhance the historic environment.
14. The proposal would also fail to conserve and enhance the historic environment, and not accord with the design objectives of the Framework, as advised in Sections 12 and 16.

Living Conditions

15. The Council considers the proposed dwelling to be undersized and to fall materially below the Nationally Described Space Standard (the National Standard) as required by Local Plan Policy H3.
16. I have had regard to the appellant's percentage figures and dimensions in respect of the proposed building and garden area. I also note that he considers the internal layout plans to be in draft form and subject to change. Nonetheless, I am required to determine the appeal on the basis of the plans submitted and the evidence before me. Moreover, I have no substantive reason to question the total gross internal floor area measurements provided by the Council and agree that they would fall short of the National Standard for a 1 bedroom 2 person 2 storey dwelling. As such, the resultant accommodation would be unduly small and cramped and would provide an unsatisfactory quality of life for future occupiers.
17. Although I note the dispute regarding the amount of the bedrooms in Nos 76-78, the submitted plans do not clearly show the boundaries of the proposed garden area. I am therefore unable to be certain that this would retain an adequate amount of quality usable private amenity space for the residents of the existing family dwelling, regardless of whether it has 5 or 6 bedrooms.
18. The proposed dormer window would also be orientated to face and overlook the rear elevations and garden areas of Nos 76-78, 80-82 and 74. According to the Council's uncontested measurements the distance to the windows within the rear elevation of No 76-78 would be approximately 14 metres away. The Council also measure there to be a separation distance between the proposal and the rear windows of No 74 and Nos 80-82 to be only approximately 18 metres and 19 metres respectively. These measurements have not been

disputed by the appellant and would fall considerably short of the recommended interface distances contained within the Council's Residential Design Supplementary Planning Document 2005 (SPD2).

19. Whilst it has been put to me that the proposed dormer window and patio doors would be provided with frosted glass, this would be the only source of natural light and outlook for the users of these rooms. I do not consider that the reduction in light and outlook that would be caused by the obscure glazing to provide an acceptable living environment for future residents. As such this would not constitute sufficient mitigation to overcome the harm that would be caused to the privacy levels of neighbouring residents.
20. In light of the above, the increased first floor height and proximity of this dormer window to the adjacent neighbouring properties rear habitable windows and back garden areas would therefore result in a significant amount of overlooking and loss of privacy for its residents.
21. I therefore find that the proposed development would have a harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to privacy and the amount of private outdoor amenity space. Furthermore, satisfactory living conditions would not be provided for future occupiers of the proposed development, with particular regard to internal room sizes.
22. As such it would conflict with Local Plan Policies S1, EQ6, and H3 which, amongst other things, require developments to achieve adequate internal space for the intended number of occupants, a satisfactory relationship to adjacent developments and not to cause unacceptable effects on amenity. It would also be contrary to advice contained within SPD2 and the Framework which seeks to ensure developments have a high standard of amenity for existing and future users.
23. The Council's reason for refusal also refers to Policy H1, which sets out the settlement hierarchy of the borough. Nonetheless, given the Council's acceptance of the principle of development, I find no conflict with this policy.

Highway Safety

24. Appendix 1 of the Local Plan sets out the parking standards for the borough. This seeks 1.5 car parking spaces for each 1 bedroom dwelling and 3 spaces per 4+ bedroom dwelling.
25. The parking arrangements for the proposed dwelling are not clearly shown on the submitted plans. Nonetheless, from the evidence before me, it appears that part of the existing off-street parking for Nos 76-78 which is currently provided by the garage and adjacent driveway would be lost or allocated to the proposed dwelling. This would appear to leave only 1 parking space to the northern side of No 76-78 for this large family property, which the main parties do not dispute has over 4 bedrooms.
26. No substantive evidence regarding traffic flows, accidents, or on-street car parking levels has been provided by either main party. At the time of my morning site visit I saw that there were some parking restrictions directly in front of Nos 76-78 and to the northern side of it, due to the presence of a bus stop and road markings. However, I also noted that cars were able to park on the highway in front of neighbouring properties further along Buxton Road and

that these areas were heavily parked. My site observations also confirmed that this level on-street car parking, along with buses stopping, disrupted the free flow of traffic. In the absence of any substantive evidence to the contrary, I have no reason to doubt that this situation would be likely to be intensified in the evenings and weekends, when residents are more likely to be at home.

27. Given the policy requirements, it is likely that there would be demand for around 2 additional parking spaces, which would need to be accommodated on the street. Whilst it has been put to me that this would be the same level of off-street parking provision as at No 80, this demand would increase the existing levels of parking stress.
28. In the absence of any substantive evidence to the contrary I am therefore unable to find that the proposal would not exacerbate the on-street car parking problems and that it would not further impede the free flow of traffic to the detriment of highway safety. As such, it would conflict with Local Plan Policies CF6 and EQ6. Together these seek, amongst other things, to ensure the development incorporates well integrated car parking and does not lead to an increase in on street parking to the detriment of the free and safe flow of traffic.
29. Furthermore, Paragraph 111 of the Framework indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety. For the reasons provided above, I have found this to be the case in this instance.

Protected Species

30. The proximity of the trees to the site boundary and the existing outbuilding is such that there is potential for the proposed development to have an effect on biodiversity interests. Given the uncertainty regarding the effect of the proposal on the trees I consider that the presence or otherwise of protected species in the trees needs to be established before permission is granted. Whilst I note the appellant's views in respect of the presence of bats, newts, and plants no habitat or ecological surveys are before me to consider.
31. Circular 06/2005 confirms that it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by the proposed development, is established before the planning permission is granted. Without such information, I cannot conclude with any degree of confidence that the proposal would not result in harm to protected species or its habitats.
32. In the absence of sufficient information to the contrary, I therefore find that the proposal would have an unacceptable effect on biodiversity interests and would not provide adequate safeguarding of protected species. It would not, thus, comply with Local Plan Policies S1, EQ5, and EQ6, which seek, amongst other things, to ensure that development proposals will not result in significant harm to biodiversity, and protects and where possible enhances the environment.
33. For similar reasons, the proposal does not meet the aims of Sections 12 and 15 of the Framework which seek to achieve well designed places and to conserve and enhance the natural environment.

Other Matters

34. I have been made aware that Nos 76-78 was empty for approximately 2 years, that it was in a poor state of repair and is currently being renovated. However, these factors do not weigh positively in favour of the proposed development as the proposal does not include this property.
35. Whilst the proposed development would have the potential to provide an additional home for local people, this cannot be guaranteed. In any case, given that it is for only 1 dwelling any benefits in respect of housing supply and other matters would be limited. In addition, the lack of any objections from the residents of Nos 74, 80 and 82 are not determining factors in the consideration of an appeal.
36. The appellant's dissatisfaction with the Council's handling of the planning application and lack of a site visit is also noted. However, this matter has had no bearing on my decision as I have only had regard to the planning merits of the proposal that is before me.

Conclusion

37. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be dismissed.

Mark Caine

INSPECTOR