



Appeal Decisions

Inquiry held on 15 November 2022

Site visits made on 14 and 18 November 2022

by M Madge Dip TP MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/H1033/W/21/3272745

Taxal Edge, 184 Macclesfield Road, Whaley Bridge, HIGH PEAK SK23 7DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Treville Properties Ltd against High Peak Borough Council.
 - The application Ref HPK/2020/0301, is dated 22 July 2020.
 - The development proposed is demolition of the existing building known as "Taxal Edge" and the detached garage building and the erection of 7 no. dwellings.
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Decision

1. The appeal is dismissed, and planning permission is refused for demolition of the existing building known as "Taxal Edge" and the detached garage building and the erection of 7 no. dwellings.

Preliminary Matters

2. This appeal is travelling with appeal reference APP/H1033/C/22/3297854. While a joint event took place, separate decisions have been made.
3. A pre-inquiry accompanied site visit was held on 14 November 2022. The inquiry sat for 4 days as a physical event and concluded on day 5 as a virtual event. An unaccompanied site visit took place on 18 November 2022.
4. The appeal, against the Council's failure to issue a decision within the statutory time period, or such extension as had previously been agreed, was submitted to and accepted by the Planning Inspectorate on 8 April 2021. The Council presented the proposed development to its Planning Committee on 19 April 2021. It resolved that planning permission should be refused. A 'decision notice' ('DN') was issued by the Council on 19 April 2021. However, as the appeal had already been accepted, jurisdiction had passed to the Secretary of State. The DN therefore has no legal standing. The main issues will however be taken from the putative reasons set out in the Council's DN.
5. The Council did not have a 5-year housing land supply at the time the DN was issued. It is now agreed that the Council has a 5-year housing land supply, and that the development plan is therefore up to date.
6. The appellant and Council also agree that there is no longer a legal fallback position. A 'baseline' attributed to the development potential of the site, having regard to relevant planning policy, is however agreed. The 'baseline' includes the following 'in principle' forms of development:
 - Conversion of the main building into up to 7no apartments;

- The extension of the main building to provide further apartments, alternatively the erection of 2 semi-detached dwellings on the site of the former gymnasium;
 - Residential conversion of the remaining outbuilding (the garage);
 - A garage for the former classroom block;
 - The classroom block (whether as altered by the requirements of the enforcement notice or as existing).
7. This agreed 'baseline' represents a material consideration to which I will have regard.

Main Issues

8. The main issues are the effects of the development on:
- the character and appearance of the local landscape; and
 - the living conditions of future occupiers of plots 1 and 2.

Reasons

9. The site lies outside the defined built-up area boundary, within what is technically 'countryside', but which forms an integral part of a collection of residential properties located on the periphery of this market town. While separated from the defined built-up area by a public right of way, visually and spatially, the site sits within the established pattern of development.
10. The site is occupied by substantial buildings, originally erected as what is now identified as a Grand Villa, it has been used as a children's home and more recently conversion works commenced to provide up to 7 flats. The land surrounding the buildings would have been formal landscaped gardens and associated woodland.
11. The site is occupied by a permanent structure, its associated curtilage and fixed surface infrastructure. The site is therefore previously developed land ('PDL'). Relevant planning policies offer support for the redevelopment of PDL, including sites outside built-up areas, where it would not lead to a significant adverse impact on the character and appearance of the countryside. Redeveloping the site for residential purposes is therefore acceptable in principle.

Character and appearance

12. The site is located on the periphery of the settlement, on a steeply sloping site just below the valley's ridge line. Although extending up the valley sides, the higher up existing development is located, the more spread out it becomes. Terraces and estates of houses are in the main located on the lower slopes, with larger detached dwellings set in substantial grounds located higher up. Existing development on the site, in conjunction with adjacent developments, demonstrate this intrinsic landscape characteristic.
13. The proposal includes the demolition of the existing buildings, significant excavations and changes of land level within the site as well as the erection of 7no dwellings, 3 of which would be detached and 4 of which would be semi-detached, and 2 detached garage/ study buildings. The properties would be

served off a new access road, located adjacent to the public right of way but divorced from it by a drystone boundary wall and existing trees.

14. The proposed house types incorporate a variety of fenestration details, including bay windows, forward facing gables, greater window to wall ratio, and recessed porches. These are all features identified as being synonymous with 'Grand Villas' and 'Small Scale Villas'. These features, coupled with the proposed materials palette, would deliver a high-quality design and finish to the proposed dwellings. Given the location of the site, on the upper valley slope, the appearance of the proposed dwellings would accord with relevant design guidance.
15. The site constraints are such that the proposed dwellings would all be located along one side of the proposed access road, with the houses stepping up the site, parallel to the ridge line. To reduce the perceived height of the development, the plots would be excavated to varying degrees. Given the site constraints and the number of dwellings proposed, there would be little separation space between the individual buildings. No significant landscaping could be achieved between the proposed buildings.
16. Upon entering the development by road, when viewed from the adjacent public right of way or from elsewhere within the valley, the proposed development would appear a single built mass. While this would be broken to a degree by the stepped design, the buildings' height and prominent architectural features would maintain its significant visual prominence.
17. While the redevelopment of PDL is encouraged, it should not be assumed that the whole of the curtilage could be developed. Given the site's peripheral location, it provides a transition between the defined built-up area and the countryside. The scale, massing and spread of the proposed development across the site would therefore be out of keeping with the established pattern of development in this location. It would also be visually incongruous, resulting in significant harm to the intrinsic character and appearance of the landscape.
18. The number of dwellings proposed may be like that which could be delivered by the baseline position. However, the baseline would provide a considerably different form of development, namely the conversion of the existing buildings with a small element of new build. Large areas of the site would remain free of development, thereby maintaining the intrinsic character of the landscape.
19. For these reasons, the development conflicts with policies S1, S6, H1, EQ2, EQ3 and EQ6 of the High Peak Local Plan, which seek to deliver an appropriate density of development that protects the aesthetic and intrinsic character of the landscape, amongst other things. The development also fails to accord with guidance in the High Peak Design Guide, the Residential Design Guide and Landscape Character Assessment Supplementary Planning Documents 2006, which seek to deliver new development that positively contributes to maintaining strong local character.

Living conditions

20. The semi-detached houses proposed for plots 1 and 2 are family homes with living accommodation on the ground and first floors. While living areas would have south-easterly aspects, looking out from the front of the dwellings over the valley, their kitchens and 2 of their bedrooms would aspect north-westerly.

These 2 plots would have private rear garden depths of approximately 4 – 5 metres and front garden depths of approximately 6 – 8 metres. Although Plot 2 does also have a side garden that extends to the rear.

21. There are established areas of woodland to the north and north-west of the proposed dwellings on plots 1 and 2. The site section plans show that the existing land level would be reduced to accommodate these dwellings and their gardens. Given the difference in land level that would be created, retaining walls of more than 4 metres in height are proposed adjacent to the private rear garden areas. The proximity of these adjacent features would significantly restrict the availability of natural light, as confirmed by the Daylight and Sunlight Assessment. Furthermore, outlook from the rear facing windows would be dominated by the retaining wall.
22. Future residents may not want large gardens, but what garden space is available should provide facilities for every day domestic activities, such as sitting out, hanging out washing and children's play. The limited size and orientation of these private garden spaces, coupled with the scale of adjacent retaining wall and over shadowing trees, would provide an unacceptable level of amenity for future occupiers.
23. Plots 1 and 2 would also have garden and driveways to the front. These front garden spaces, while larger than the rear gardens, are still of limited size. They would also be adjacent to the access road. Even with the provision of landscape screening, residents are unlikely to use them in the same way as they would use a private rear garden space. Furthermore, as front gardens are required to establish a visual relationship with the street, they are not the best place to locate the largest amount of private amenity space.
24. Even if I were to accept that the totality of garden space for each of these 2 plots was adequate, this does not overcome my concerns relating to the visual dominance and overbearing nature of the retaining wall resulting from its proximity to the dwellings' rear elevations or the lack of natural light.
25. For these reasons, the proposal conflicts with policies S1 and EQ6 of the High Peak Local Plan, which seek to deliver a high standard of amenity for future residents through good design, amongst other things.

Other Matters

26. Amendments to the access road layout are required to provide for refuse vehicles and fire engines to be able to turn. The access width may also need to be widened in places. Such amendments could be accommodated within the site and without encroaching into identified tree protection areas.
27. Taxal Beeches, a deciduous woodland, lies beyond the site boundaries. The topography of the site is such that the development would have no significant effect on the adjacent woodland. The appellant has already carried out additional tree planting within the site and upon other surrounding land in their ownership. The proposal is informed by an Arboricultural Impact Assessment, which includes a Trees Constraints Plan. Any potential harm to trees within the site could be addressed through the imposition of appropriate conditions requiring the provision of tree protection fencing and the development being carried out in accordance with the recommendations of the report.

Conditions

28. A schedule of suggested conditions is set out in the agreed Statement of Common Ground. The conditions relate to controlling the development in detail, and securing appropriate access, drainage, landscaping, waste disposal, means of enclosure, and maintenance of dry-stone walls, and the removal of permitted development rights. These suggested conditions do not address the landscape character harms or the harm to future residents' living conditions identified above. The imposition of conditions would not therefore make the development acceptable in planning terms.

Conclusion

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

M Madge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jonathon Easton of Counsel

He called: Mr Gary Cullen
Mr Rawdon Gascoigne
Mr Nicholas Folland

FOR THE LOCAL PLANNING AUTHORITY:

Mr Hugh Richards of Counsel

He called: Ms Mary McGuire
Ms Rachael Simkins
Mr Anton Connell

DOCUMENTS

- ID1 - Appellants' opening statement
- ID2 - Council's opening statement
- ID3 - Signed Joint Statement of Common Ground
- ID4 - Signed annex to ID3
- ID5 - Signed Joint Statement of Common Ground in relation to landscape matters
- ID6 - Plan highlighting land above 240m contour
- ID7 - Council Tax record
- ID8 - Plan showing 1.839m difference in ridge height
- ID9 - Plan showing 1.630m difference in ridge height
- ID10 - Site Visit navigation details for location of LPS's View Points
- ID11 - Technical data of example Blue-Black Cromleigh Graphite roof tile
- ID12 - Plan to be attached to the Enforcement Notice as "EN06" as replacement for EN04 & EN05
- ID13 - Cedral Ireland fibre cement slates fixing guide
- ID14 - Burroughs Day v Bristol City Council 1996 Lexis Citation 3354
- ID15 - Closing Submissions on behalf of the Council
- ID16 - Closing Submissions on behalf of the Appellant