



Appeal Decision

Site visit made on 20 March 2023

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2023

Appeal Ref: APP/H1033/W/22/3310832

46 Carr Road, Buxton, Derbyshire SK17 6WF

- 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 Nick Coley against the decision of High Peak Borough Council.
 - The application Ref HPK/2022/0120, dated 14 March 2022, was refused by notice dated 14 July 2022.
 - The development proposed is described as 'Retrospective change of use of existing soft landscaped area, as approved by HPK/2003/0335, to an area of hard standing utilised for domestic off-street parking provision, artificial grassed area, and means of enclosure defined by grey boarded fence'.
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Decision

1. The appeal is dismissed insofar as it relates to the means of enclosure defined by grey boarded fence. The appeal is allowed insofar as it relates to change of use of existing soft landscaped area to an area of hardstanding utilised for domestic off-street parking provision and artificial grassed area at 46 Carr Road, Buxton, Derbyshire SK17 6WF in accordance with the terms of the application, Ref HPK/2022/0120, dated 14 March 2022, and the plans submitted with it so far as relevant to that part of the development hereby permitted.

Preliminary Matters

2. The appellant has sought to argue that the development does not involve a change of use. However, it is not for my consideration of this appeal under Section 78 of the Planning Act 1990 to make a judgement on the lawfulness of the development. Furthermore, the appellant agreed to the description of the development that the Council has used in the decision notice, although I do note that it was considered that there was no choice.
3. I have therefore determined the appeal on the same basis as the Council and have used the same description of the development in the decision and the banner heading above, as that set out in the Council's decision notice.
4. I note that the application is retrospective, and that the development has already taken place. For the avoidance of doubt, I have determined this appeal on the plans as submitted.
5. For the reasons that follow, I find the change of use to an area of hardstanding utilised for domestic off-street parking and artificial grass to be acceptable. They are clearly severable both physically and functionally from the boundary fence. Therefore, I intend to issue a split decision in this case and grant planning permission for these elements of the appeal scheme.

Main Issues

6. The main issues are the effect of the development upon the character and appearance of the area and highway safety with particular regard to visibility.

Reasons

Character and appearance

7. The appeal site is one of a group of three attached dwellings within a large estate. It is located on a corner plot next to Carr Road and fronts onto a short cul-de-sac off it. I note Carr Road is the principal route serving the estate. At the site visit I saw other examples of boundary treatments enclosing frontages that included hedges, open metal railings, and low retaining stone walls with metal railings above.
8. Prior to the development taking place the area to the front of the property formed part of a series of open grassed areas around the cul-de-sac turning head. The open areas offer visual relief from its more built-up surroundings, positively contributing to the character of the area.
9. The development encloses a significant and prominent section of that open area creating a hard boundary on the back edge of the footpath, in a prominent position. Furthermore, the appearance of the grey plastic fence panels and timber supporting posts do not reflect the variety of boundary treatments within the estate. The fence is an incongruous and discordant feature, and together with the loss of openness, is detrimental to the character and appearance of the area.
10. The appellant has advanced several examples of boundary treatments to highlight the variety on Carr Road I have referred to. They include, to the front of properties, railings which maintain openness, or hedges which are pleasing soft landscape features. Examples of solid boundary treatments are also provided but these all enclose side and rear gardens unlike the appeal scheme. As the examples are not comparable, they do not weigh in favour of the appeal.
11. Under the terms of Class A, Part 2 of Schedule 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 there are permitted development rights to erect a fence of no higher than 1m adjacent to a highway. The appellant contends that this potential fall-back should be considered against the impact of the fence. Such rights are not restricted to land forming part of the curtilage of a dwellinghouse and therefore apply irrespective of whether a change of use of the frontage has taken place.
12. For the fall-back position to carry weight as a material consideration it should have a similar or greater effect than the appeal proposal. The fence panels, according to the measurements on the plan, are only 0.2m higher than could be erected without planning permission. Nonetheless, in this instance any increase in the height of the boundary treatment increases its prominence and harm to the character and appearance of the area. Accordingly, the fall-back argument presented by the appellant does not justify the harm I have previously identified as the lower fence would have a less harmful impact on the character and appearance of the area.

13. I therefore conclude that the fenced enclosure of the area to the front of the appeal property is harmful to the character and appearance of the area. This is contrary to Policies S1 and EQ6 of the High Peak Local Plan (LP) as it fails to make a positive contribution to the environment. In addition, I also find conflict with the design aims of the High Peak Design Guide Supplementary Planning Document (SPD) and chapter 12 of the National Planning Policy Framework (the Framework).

Highway Safety

14. As indicated above, the appeal site is located on the corner of Carr Road and a cul-de-sac spur off it. Due to its height and position close to the junction, the fence significantly restricts visibility to the right when exiting the cul-de-sac.
15. As a result of the restricted visibility, it is not possible to see other vehicles or pedestrians travelling along Carr Road from the right of the junction without edging out onto Carr Road. I note that the cul-de-sac is quiet, serving a small number of dwellings and that Carr Road terminates a short distance beyond the cul-de-sac. As such there is a limited number of vehicles passing the junction, and such vehicles are likely to be travelling at slow speeds. Nonetheless, the impediment to visibility arising from the appeal fence is likely to result in conflict between vehicles exiting the cul-de-sac and users of Carr Road to the detriment of highway safety.
16. For the reasons given above, the fence is harmful to highway safety and is therefore contrary to LP Policy CF6 and paragraph 10 of the Framework which both seek to ensure that development can be safely accessed and does not have an unacceptable impact on highway safety.

Other Matters

17. The Council did not refuse the application in respect of the introduction of a hard surface for the parking of vehicles at the front of the house. Such elements of the proposal would, if the fence were removed, maintain the openness of the frontage. As such I agree that they would not be harmful to the character and appearance of the area or be harmful to highway safety and would therefore accord with LP Policies S1, EQ6 and CF6, the SPD and the Framework.

Conclusion

18. For the reasons given above the appeal is allowed insofar as it relates to the single storey front extension.
19. The means of enclosure defined by the grey boarded fence, however, conflict with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the harm and associated development plan conflict. I hereby dismiss this appeal insofar as it relates to the grey boarded fence.

Elaine Moulton

INSPECTOR