

Appeal Decision

Site visit made on 19 August 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2024

Appeal Ref: APP/H1033/W/24/3338480

**Glossopdale Community College Lower Site, Talbot Road, Glossop,
Derbyshire SK13 7DR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Alan Davies against the decision of High Peak Borough Council.
 - The application Ref is HPK/2022/0344.
 - The development proposed is proposed new bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on "Proposed reforms to the NPPF and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". A Written Ministerial Statement entitled "Building the homes we need" was also published on 30 July 2024.
3. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration of very significant weight, the weight I give to the changes in the draft Framework is limited given that no final document has been published and it is subject to potential change in the future. I have therefore had due regard to these publications in my determination of this appeal and the main parties were given the opportunity to comment on these publications. I have taken into account any comments raised.

Main Issues

4. The Council has included three reasons for refusal on the decision notice. However, upon review I consider the first and second reasons for refusal can be incorporated into one main issue. As such, the main issues are:
 - the effect of the proposal on the character and appearance of the Howard Park Conservation Area, with particular regard to the siting, scale and design of the proposed dwelling and the effect on trees; and
 - whether the proposed development would provide appropriate living conditions for future occupiers, with regard to shading and leaf fall.

Reasons

Conservation Area

5. The appeal relates to a plot of land located on the northern side of Talbot Road, within the Howard Park Conservation Area (CA). In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
6. The CA comprises of Howard Park, a ribbon of dwellings situated on the western side of North Road and the property known as Talbot House, including new dwellings which have been constructed within its former grounds. I observed that the significance of the CA in part derives from its green and verdant character. This is largely as a result of the trees and green space provided by Howard Park, but also from the mature trees and gardens associated with the dwellings on North Road and the wooded areas which surround Talbot House.
7. The appeal site is covered in a large number of trees and is subject to a Tree Preservation Order (TPO). A number of the trees on the appeal site are significant in size and they partially screen the two dwellings situated directly to the north from views along Talbot Road and sections of North Road. The trees on the appeal site are therefore visible and prominent from public vantage points within the CA.
8. Whilst I acknowledge that the appeal site was historically likely to be more open in character, the trees on the appeal site, along with the trees on land directly to the west, make a positive contribution towards the green and verdant character of the CA as a whole.
9. The appeal site slopes upwards from south to north, away from Talbot Road, and the proposal seeks to erect a detached bungalow at the northern (higher) part of the appeal site, close to the boundary with the dwelling directly to the north at No. 88 North Road (No. 88). Access to the proposed dwelling would be via the existing track of West Drive, which itself leads directly from Talbot Road.
10. The proposed siting of the dwelling would require the removal of a number of trees from the northern part of the appeal site. The application was accompanied by an Arboricultural Report (AR) which details that all of Group 1 (G1) would be removed, as well as parts of Group 3 (G3) and Group 4 (G4), and a single ash tree (T22) which is suffering from advance ash dieback and therefore a Category U tree. The AR categorises all the trees within G1 and G3 as Category C trees with a life expectancy of more than 40 years. The AR also details that the trees in G4 are Category B trees, and that these are early mature trees with a life expectancy of more than 40 years.
11. As such, the proposal would result in the loss of trees from the appeal site which, as a result of their life expectancy, have significant potential to mature and further contribute to the character of the CA. Of particular concern would be the loss of the Category B trees within G4.
12. I acknowledge that the trees to be removed are situated at the northern end of the site and therefore are not currently highly prominent from Talbot Road

or North Road due to being screened by trees to the south and west. Nevertheless, they still make an important positive contribution to the collective value of the trees on this site and the CA in general, and as they mature the positive contribution they make will likely increase.

13. Consequently, the loss of the trees from the appeal site would result in some harm to the character and appearance of the site and the wider contribution it makes to the CA. Additionally, due to the close proximity of the proposed dwelling to a number of trees that are shown to be retained, there would likely be pressure from future occupiers to remove more trees in order to improve or retain their outlook and levels of daylight. Whilst the living conditions of future occupiers is discussed in more detail later in this decision, any potential further loss of trees in the future would only result in additional harm to the CA.
14. The appellant has suggested that replacement tree planting could be provided elsewhere to mitigate for the loss of trees, however I have very limited information before me in respect of any proposed replacement tree planting at this stage. Furthermore, given my observations of the site, and the proposed layout as shown on the submitted plans, there would appear to be limited scope for replacement planting within the appeal site itself.
15. I am aware that the appellant states they own the dwelling to the north of the appeal site (No. 88). However, this neighbouring dwelling has not been included within the site edged red, or edged in blue, on the location plan and there is no mechanism before me to secure any replacement planting on land outside the appeal site. As such, on the information before me, I attribute very limited weight to the potential for replacement tree planting in order to mitigate for the loss of the trees from the appeal site.
16. I note the Council's reason for refusal also states that the scale and design of the proposed development would be harmful to the CA, however their submissions do not specifically detail which scale and design elements of the proposed dwelling would be harmful.
17. In terms of the single-storey scale and its overall design, I observed that the proposed dwelling would be similar in appearance, by way of materials and detailing, to the two dwellings located immediately to the north of the appeal site. The dwelling would also be partially screened from Talbot Road by the retained trees to the south, and the trees on the land to the west.
18. As such, and notwithstanding the impact of the appeal scheme on trees, I find that the single-storey scale, and the overall design and appearance of the proposed dwelling itself, would not result in any harm to the character and appearance of the area, or the CA.
19. Nevertheless, for the reasons given earlier, the loss of the trees from the appeal site would result in some harm to the character and appearance of the site and the CA. The proposal would therefore fail to preserve the character and appearance of the CA. In this respect I consider that the harm to the significance of the CA would be less than substantial. Therefore, in accordance with paragraph 208 of the Framework this harm must be weighed against the public benefits.

20. The appellant has stated that the provision of a bungalow is a benefit due to the ageing population. The appellant's submission does not however provide details of the number of bungalows in the locality or any evidence of a specific identified need for bungalow house types in this area. Nonetheless, I acknowledge that the provision of a bungalow does provide a public benefit. However, given the scale of the development is for one bungalow, I attach this limited weight in favour of the appeal scheme as a public benefit.
21. The appellant also states that the dwelling would be a self-build property. I have not been provided with details on the level of need for self-build plots within High Peak, as per the self-build register, or details of how many self-build plots have been granted consent. I am therefore unaware as to whether there is currently any shortfall in self-build plots within the borough. Moreover, I have no legal agreement, undertaking or other mechanism suggested to secure this dwelling as a self-build plot under the legislative requirements of the Self-Build and Custom Housebuilding Act 2015 (as amended).
22. Consequently, in the absence of detailed information in respect of self-build plots within the borough and a mechanism to secure this provision, I give the self-build consideration very limited weight in favour of the appeal proposal as a public benefit.
23. I accept that the delivery of one additional dwelling is a benefit arising from this proposal as it would positively contribute to the Council's housing land supply, albeit in this respect the benefits of a single dwelling would be very modest. Furthermore, limited economic benefits would also likely arise from employment during the construction works, and occupation of the proposed dwelling through additional expenditure in the area.
24. Nevertheless, paragraph 205 of the Framework requires great weight to be given to the conservation of the heritage asset, and the public benefits arising from the appeal proposal would not outweigh the harm I have identified. Thus, the proposal would conflict with the Framework.
25. I conclude that the proposal would fail to preserve the character and appearance of the CA and therefore would not accord with policies EQ6, EQ7 and EQ9 of the High Peak Local Plan (2016) (LP) which require, amongst other things, that development be well designed; respect the character, identity and context of townscapes; positively respond to an area's character; conserve heritage assets, including conservation areas, in a manner appropriate to their significance; and to protect existing trees from loss or deterioration.
26. The proposal would also conflict with the Framework where it seeks to achieve well-designed and beautiful places and conserve and enhance both the natural and historic environment.

Living conditions of future occupiers

27. As detailed above, the appeal site contains a significant number of trees with some of those shown to be retained located sited very close to the proposed dwelling. These retained trees would be located to the south, east and west of the dwelling and would result in significant levels of leaf fall, overshadowing and a lack of sunlight to the dwelling itself and the associated outdoor amenity space, providing unacceptable living conditions for future occupiers.

28. I note the appellant has provided a shade analysis with the submission, showing the affect during March, June and October. However, this submission only includes details of the affect at 12:00pm which is the time when the sun is at its highest in the sky. As such, the submitted shade analysis does not demonstrate the potential affect from shading at other times during the day as the sun moves through the sky. This limits the weight I can attribute to this submission.
29. Furthermore, the submitted AR predicts that the trees shown to be retained which are closest to the proposed dwelling have a life expectancy ranging from 20 to 40+ years. Thus, it is likely that the canopies of these retained trees would grow closer to the proposed dwelling in time, only exacerbating the potential impacts from overshadowing and leaf fall.
30. The relationship between the proposed dwelling and the retained trees therefore has the potential to result in future pressures for these trees to be significantly pruned or removed. This would further erode the aforementioned positive contribution these trees make to the CA and the character and appearance of the area in general.
31. The appellant has commented that any future works to these trees would require an application to the Council. However, once the proposed dwelling is occupied it would likely be difficult for the Council to resist applications to prune or fell these trees if they were causing damage or significant harm to the living conditions of future occupiers of the proposed dwelling.
32. I therefore conclude that the proposal would not provide appropriate living conditions for future occupiers with regard to shading and leaf fall, and would likely result in future pressure to fell or prune a number of trees that are shown to be retained on this site. The proposal is therefore contrary to LP Policies EQ6 and EQ9, where they require, among other things, that development be well designed; not cause unacceptable effects by reason of shadowing; and protect existing trees and woodlands.
33. The proposal is also considered to be contrary to paragraph 135(f) of the National Planning Policy Framework (the Framework) which seeks to ensure developments provide a high standard of amenity for future users.

Other Matters

34. Both parties have drawn my attention to a previous appeal decision¹ at this site which is a material consideration. Nevertheless, whilst this previous appeal also sought permission for a single dwelling and the main issues appear to be the same, the previous proposal was substantially different as it proposed a dwelling of varying design and scale within a different part of the appeal site. The appeal scheme before me is therefore different from the previous appeal proposal and consequently I have determined this appeal on its own merits.
35. The Council's submissions state that it is currently able to demonstrate a 5-year supply of housing. The appellant has however drawn my attention to what they perceive to be the Council's significant under delivery of housing in the past.
36. Whilst acknowledging the appellant's comments on this matter, the presumption of favour of sustainable development set out in paragraph 11(d)

¹ APP/H1033/W/17/3169199

of the Framework is engaged when the most relevant policies for determining the application are out-of-date, including applications whereby the Council cannot currently demonstrate a 5-year supply of deliverable housing sites; or where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years. I have been provided with no evidence that paragraph 11(d) applies in relation to this appeal.

37. As part of their response to the request for comments on the "*National Planning Policy Framework: draft text for consultation*" document and the Written Ministerial Statement, the appellant has stated that the Government has proposed a new method for determining how many homes should be built in each area and under this new formula the Council's annual housing figure would be 585. The appellant therefore states that under this new proposed figure the Council would be unable to demonstrate a 5-year supply of housing.
38. As detailed earlier, the weight I can give to the changes proposed within the "*National Planning Policy Framework: draft text for consultation*" is limited at this stage given that no final document has been published and it is therefore subject to potential change in the future.
39. Nevertheless, even in the scenario whereby the proposed housing requirement figure in the draft Framework was applicable and it was resultingly determined that the Council could not demonstrate a 5-year supply of housing, meaning paragraph 11(d) of the Framework applies. For the reasons detailed within this decision, the aforementioned harm to the designated heritage asset (CA) provides a clear reason for refusing the development in accordance with paragraph 11(d)(i) of the Framework. As such, even in the scenario where the Council could not demonstrate a 5-year supply of housing the proposal would not benefit from the presumption in favour of sustainable development set out in the Framework.

Conclusion

40. The proposal conflicts with the development plan when taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

R Major

INSPECTOR