The Planning Inspectorate

Appeal Decision

Site visit made on 3 December 2012

by Victoria Lucas-Gosnold LLB MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 January 2013

Appeal Ref: APP/H1033/A/12/2183437
Land at Whitle Road, New Mills, Derbyshire, SK22 4EG

- 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 John Walker against the decision of High Peak Borough Council.
- The application Ref HPK/2012/0063, dated 5 February 2012, was refused by notice dated 21 March 2012.
- The proposal is described as the development of surplus vacant land for the erection of two detached dwelling houses.

Decision

1. The appeal is dismissed.

Procedural Matter

2. In addition to the application plans[1], the appeal was accompanied by several additional plans that illustrate various alternative designs. Although the appellant has requested that I provide comments as to the appropriateness of the various design and massing options submitted, that would not be appropriate. I am required to deal with the appeal on the basis of the same plans that were the subject of the Council's decision. Indeed, the Planning Inspectorate Good Practice Advice Note 09 makes it clear that the appeal process should not be a means to progress alternatives to a scheme that has been refused, or a chance to amend a scheme so as to overcome the reasons for refusal. Any revised scheme would need, in the first instance, to be submitted to the Council for consideration. Whilst the planning officer may have indicated at pre-application stage that minor amendments to the proposal could be dealt with during the application process, such discussions are informal only and are not binding on the Council.

3. The occupiers of an adjoining property, Pennine View, have queried whether the boundary wall to the appeal site has been moved such that it is now encroaching on their land. Whilst that may have implications for implementation, were the appeal to succeed, I have made my decision only on the planning merits of the case.

[1] Location plan, proposed site layout block plan 2e, Proposed layouts / section drawing 3a – dwelling A, Elevation drawing 4a – dwelling A, Proposed layouts / section drawing 5d – dwelling B, Elevation drawing 6d – dwelling B, Site section drawing 7a, Site topographical survey.

Main Issues

4. The main issues are:

- The effect of the proposed development on the character and appearance of the area.
- The effect of the proposed development on the living conditions of adjoining occupiers, having particular regard to outlook and privacy.

Reasons

Character and appearance

5. Whitle Road is a narrow, steeply sloping lane on the edge of the built up area of New Mills. It is predominantly residential with housing being interspersed with open land. The appeal site is situated at the top of the hill close to the junction with Apple Tree Road, beyond which lies open farmland with expansive views across the Pennines. The area therefore, despite being on the edge of the town, has a relatively rural and loose-knit feel.

6. Close to the site, existing housing, although comprising a mix of styles, has been designed to respond to the steeply sloping topography of Whitle Road. The combination of the use of stone construction, the careful positioning of houses within their plots to take account of different land levels and the use of building widths appropriate to their setting, together results in existing development blending well with the surrounding landscape and existing streetscene. Even though there have been more recent developments such as Pennine View, a modern detached house occupying a prominent corner plot on Whitle Road and immediately adjacent to the appeal site, these blend harmoniously with the existing character and appearance of the area.

7. The appeal site fronts onto Whitle Road which rises steeply from north to south. In addition, ground levels within the site fall away from the road towards the rear gardens of houses on Peveril Avenue that back onto the site. A detached property, Wynton, is situated to the north of the site and a detached property, Pennine View, to the south. The site is currently roughly grassed and on the day of the site visit was somewhat overgrown. There has been a previous planning application for a similar proposal on the site which was withdrawn.[2] The development proposed would see the construction of two detached dwellings with attached garages: dwelling A would have 5 bedrooms and dwelling B would have 4 bedrooms. Given the size of the dwellings proposed, and their elevated position, I am in no doubt that they would be seen as prominent and intrusive features in the streetscene.

8. Although there is disagreement between the parties as to the actual dimensions of the dwellings proposed, this is due largely to whether garaging is included in the width calculations or where, given the changing ground levels, overall heights are measured from. However, my concerns relate to how the dwellings would be seen in their context, in terms of their overall scale and massing.

9. I recognise that the development would equate to approximately 5 to 6 plots per acre, which is described as low density and similar in character to other new development in the vicinity. However, whilst the layout has been designed

[2] Ref: HPK/2011/0324 – withdrawn August 2011

to take account of the sloping nature of the site, with the position of dwelling A utilising a flatter section of the site and dwelling B utilising a split level design, this does not alter the fact that both properties would have substantial footprints. This results in dwellings of substantial height, depth and width. Notwithstanding the set back from the road, they would appear overly large within the confines of the site, and would be uncharacteristic in the context of the wider area. Whilst the dwellings may be slightly lower than the street level to Whitle Road, this would not mitigate that impact. I also share the Council's concerns that that the hipped roof design would not be characteristic of the area.

10. As a consequence, the development proposed would not be consistent with policies GD4 and H11 of the High Peak Local Plan, or paragraph 64 of the National Planning Policy Framework (Framework), which together seek to ensure that new development reflects and is sympathetic to its context.

11. In support of the proposal, the appellant maintains that the footprint of the adjacent property, Wynton, is greater than that of either of the dwellings proposed. Whether or not that is the case, I saw that it occupies a more inconspicuous, lower lying position in relation to the adjacent roads than the buildings proposed, with a generally single storey appearance (notwithstanding later extensions). As a consequence, it does not provide a direct comparison with the appeal scheme.

Living Conditions- adjoining occupiers

12. In relation to separation distances required to protect the living conditions of adjoining occupiers, Annex 2 of the High Peak Borough Local Plan 'Guidelines for the design and layout of residential development' advises that a minimum separation of 21 metres would normally be acceptable but, in cases such as the appeal site, where there is a difference in land levels, an extra metre is required for every 0.5 metre change in elevation. The parties agree that, in the case of dwelling B proposed, the appropriate separation would be 30 metres. Since the closest adjoining property to the rear, on Peveril Avenue, is situated some 30 metres away, the guideline would be met. I also note that no side facing windows are shown within the northern elevation of the proposed dwelling and there would be no overlooking, therefore, of Wynton. All in all, I am satisfied that there would be no harm to the living conditions of these properties by reason of outlook or loss of privacy.

13. In relation to dwelling A proposed, whilst it is agreed that the closest adjoining property on Peveril Avenue would be 26 metres away, there is some dispute regarding the appropriate separation required to comply with the guidelines. However, even taking the lesser distance suggested by the appellant, the guidelines would still be breached, with the consequence that the development would be seen as overbearing from the rear of the Peveril Avenue property, increasing the potential for overlooking and loss of privacy for adjoining occupiers.

14. The garden of Pennine View, which runs alongside the appeal site, adjacent to dwelling A proposed, tapers to the rear and is angled towards the rear garden to dwelling A. However, no side facing windows are proposed and, whilst the elevated position of the appeal site would allow for views into the adjacent garden, that is a matter that could be addressed by appropriate boundary treatment, were the appeal to succeed. I find no harm in this regard.

15. The appellant seeks to draw support for the proposal from the absence of any objection from neighbouring occupiers. However, the absence of objection could be due to any number of reasons and does not, necessarily, equate to support. In any event, an objection was received.

16. Therefore, for the reasons given above, I conclude that dwelling A proposed would be likely to result in material harm to the living conditions of the occupiers of the nearest property to the rear by reason of outlook and loss of privacy. Accordingly, it would not be consistent with policies GD5, H11, Annex 2 of the Local Plan, or paragraph 17 of the Framework, which together seek to ensure that new development ensures adequate privacy and a good standard of amenity for existing occupants.

Other Matters

17. Off-street parking and garaging for both proposed dwellings would be provided within the appeal site, to be accessed off Whitle Road. The arrangement would have no adverse implications for the street scene and no objections are raised by the Highway Authority, subject to conditions.

18. I recognise that the Council does not have a five year supply of housing land and that the development would make more efficient use of the land. However, the benefit of providing two additional dwellings in this regard would not outweigh the harmful effects that I have identified above.

19. In support of the appeal, the appellant refers to the High Peak Interim Housing Policy Statement. Although I have not been provided with a copy of that document, it is no part of the Council's case that there is any conflict with the guidance therein.

20. The appellant has referred to a recent planning permission for a new detached dwelling to be constructed at the side of 41 Whitle Road. Whilst I have not been provided with the details of this proposed development, my determination of this appeal has had regard to the specifics of the development proposed in the context of its effect on the character and appearance of the area and its effect on the living conditions of adjoining occupiers. Additionally, I note the appellant describes the site as vacant land as it no longer forms part of the private garden to Wynton and that the proposal therefore does not comprise development of a garden. However, the Council takes no issue with the principle of residential development on this plot. Moreover, whilst the proposal may continue the built line of Whitle Road, this would not overcome the harm that I have identified above.

Conclusion

21. Therefore on balance, for the reasons given above, I conclude that the appeal should not succeed.

Victoria Lucas-Gosnold

INSPECTOR