The Planning Inspectorate

Appeal Decision

Site visit made on 10 January 2013

by A L Fairclough BSC(Hons) MA LLB (Hons) PGDipLP IHBC MRTPI

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

Decision date: 21 January 2013

Appeal Ref: APP/H1033/D/12/2188239
Handy House, Spring Gardens, Buxton, Derbyshire SK17 6BZ

- 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 Robert Critchlow against the decision of High Peak Borough Council.
- The application Ref HPK/2012/0378 was refused by notice dated 3 September 2012.
- The development is described as a new extension to the side of the existing building to give more space and better living accommodation.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was made by Mr Stephen Wherry. However, following correspondence with the Planning Inspectorate it has been agreed that the appeal will proceed in the name of Mr Robert Critchlow to whom rights have been transferred.

Main Issues

3. The appeal property, Handy House, is located on land which is behind a main shopping street, Spring Gardens, in Buxton town centre. It appears to be part of a rear courtyard area which can be reached on foot via ginnels off Spring Gardens and by a private gated access via Holker Avenue. There is another building within this rear courtyard area. The other building, known as Nos 1-6 Longden Court, which is a Grade II listed building, is located immediately to the north of the appeal site. In addition, the appeal site is located within the Buxton Hardwick Conservation Area and the Spring Gardens Character Area.

4. On this basis the main issues in this case are:

   (a) the effect of the proposed development on the character and appearance of the locality including whether or not the proposed development would preserve or enhance the character or appearance of the Buxton Hardwick Conservation Area; and whether the proposed development would preserve the setting of Longden Court, a Grade II listed building; and,

   (b) the effect on neighbours' living conditions having particular regard to light and outlook.

Reasons

First Issue – Character and Appearance and Listed Building Setting

5. The appeal site is located within a rear courtyard area behind several terraced properties fronting Spring Gardens. It includes a 2-storey detached dwelling which is finished in render and reconstituted stone with a slate roof. The fenestration is constructed in timber and is modern in style and design with the windows exhibiting horizontal emphasis. The appellant seeks to extend the existing building with a 2-storey extension which would be similar in size and design to the existing building and would thus double the size of the dwelling. The scheme also includes the creation of an enclosed garden area.

6. The character of the immediate locality is derived from the late C18th and C19th buildings which front Spring Gardens. The built form is linear in nature and there are views to the rear of properties along ginnels so the appeal building is visible from Spring Gardens. Although there are other materials in use, the buildings in the locality are predominantly constructed in natural stone with slate roofs. Many of the buildings in this area have a vertical emphasis to their fenestration and there is, overall, similarity in the general style and details.

7. The appeal building does not reflect the general character of the immediate locality or that of the wider area. Given that the appeal building has been identified as having a negative impact on the character of the Conservation Area on the basis of its scale, materials, design and massing, I consider that a scheme which would effectively double the size of the dwelling utilising a similar style, scale, design and material to the existing negative feature would not preserve the character of the Conservation Area and would in fact further harm it. As such, I am in no doubt that the scheme would fail to preserve or enhance the Buxton Hardwick Conservation Area.

8. In addition the proposed extension and a proposed new garden area would be positioned some 4m from the rear elevation of Longden Court, the Grade II listed building, which is a 3-storey vernacular stone building previously used as workshops and it dates back to the late C18th. The scheme would fill part of a currently open area of land positioned adjacent to both properties, the ownership of which is currently in dispute. Given the proximity of the proposed extension along with the scale, mass, form and use of materials, I consider that it would create a development which would appear cramped and visually dominant and jarring. This would harm the setting of the listed building known as Nos 1-6 Longden Court. Furthermore, although no details of the proposed boundary treatment in terms of material, style and height have been provided, any enclosure of the rear garden area would inevitably impact on its' setting because it is positioned in such close proximity.

9. Thus the significance of both heritage assets would be harmed. It would conflict with Policies BC1 and BC5 of the adopted *High Peak Saved Local Plan* dated 2008 (LP), which relate to external materials and conservation areas. Also it would be contrary to LP Policy BC8 which relates to the setting of listed buildings. These policies are broadly in accordance with the *National Planning Policy Framework* (The Framework) dated 2012 and so, in accordance with paragraph 214, I accord them full weight.

10. Furthermore, the Framework states that good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people. Permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

11. The harm it would cause to the setting of the listed building is less than substantial on the basis that the archaeological, architectural, artistic and historic qualities would be left intact. Moreover, the Conservation Area is large and the proposed extension would affect only a small part of it. Paragraph 134 of the National Planning Policy Framework (The Framework) states that where a proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal.

12. The proposal would provide some benefits to the appellants, notably additional living space and the provision of a garden making it more desirable to live in and easier to let/sell. This may amount to a small benefit to the housing stock. However, that modest public benefit would not outweigh the harm that I have identified to the character of the Conservation Area or the setting of the listed building.

Second Issue – Living Conditions

13. The proposed scheme would be positioned some 4m from the rear elevation of Nos 1-6 Longden Court, which is currently used as a dwelling. There are several windows serving habitable rooms including living rooms on the first and second floors of the listed building. Given the orientation of the properties I consider that there would be a loss of sunlight to these habitable rooms. In addition given the close proximity, I consider that there would also be a loss of daylight which would make these rooms gloomy and less pleasant to use.

14. Also the proximity of the proposed scheme would be such that it would create a dominant and overbearing feature when viewed from this dwelling. On this basis the appeal scheme would harm the living conditions of the occupiers of that property in terms of outlook.

15. Thus the appeal scheme would be contrary to LP Policy GD5 and H14 which relate to general amenity and domestic extensions.

Other Matters

16. Spring Gardens follows the historic path of the River Wye, which is now culverted, and thus the appeal building lies within the River Wye Flood Zone 2. The appellant has stated that it has never flooded and does not consider that flood proofing is necessary. On that basis he has not provided any information relating to flood proofing. Although the Council stated that this point alone was not sufficient to refuse the planning application, I have no information on which to conclude on this matter. However, in the light of my conclusions on the main issues it would not be expedient to delay the decision further to resolve this matter.

17. Reference has been made to the unauthorised removal of a listed building and to disputes in relation to access and land ownership. However, these issues are not before me and are dealt with under different legislation by other parties.

Conclusions

18. The proposed scheme would not preserve or enhance the character or appearance of the Buxton Hardwick Conservation Area and it would not preserve the setting of Nos 1-6 Longden Court. I conclude that the benefits provided by the proposed works are insufficient to outweigh the harm it would cause to the listed building or the character of the Buxton Hardwick Conservation Area. Additionally it would also harm the living conditions of the occupiers of Longden Court in terms of loss of light and outlook. Consequently it conflicts with the Framework and the abovementioned LP Policies. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

A Fairclough

INSPECTOR