The Planning Inspectorate

Appeal Decision

Site visit made on 23 April 2013

by Matthew Birkinshaw BA(Hons) MSc MRTPI

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

Decision date: 6 June 2013

Appeal Ref: APP/H1033/A/12/2189675
Liberal Hall, Hurst Lea Road, New Mills, High Peak, SK22 3HP

- 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 Brian Musgrave against the decision of High Peak Borough Council.
- The application Ref HPK/2012/0298, dated 18 June 2012, was refused by notice dated 4 July 2012.
- The development proposed is the conversion of existing Liberal Hall into a 3 bedroom dwelling.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Submitted with the appeal was an additional plan, Reference 1093.04 which proposed a fence attached to the existing stone wall along the western site boundary. Given that all parties have had the opportunity to comment on this, and it would not prejudice the interest of any party, I have therefore determined the appeal on the basis of plan Reference 1093.04.

Main Issues

3. The main issues are:

    - The effect of the proposal on the availability of community facilities;
    - The effect of the proposed access arrangements on vehicular and pedestrian safety along Hurst Lea Road;
    - The effect of the proposal on the living conditions of neighbouring residents, with particular reference to privacy; and
    - Whether or not the proposal would provide acceptable living conditions for future occupiers, with particular reference to outlook and privacy.

Reasons

Availability of Community Facilities

4. The appeal relates to the conversion of the New Mills Liberal Club Hall. Although the building was originally used to provide facilities for Liberals, evidence presented by the appellant confirms that the building has more recently been used by local community groups.

5. However, at present the Liberal Hall is only used by 'New Mills Action' on a fortnightly basis, a social group every Thursday afternoon, and by an art group meeting weekly on Tuesday evenings. Although there is conflicting information as to whether or not a local band also practices at the hall, even in the event that they do, this still only amounts to a relatively infrequent use of the building. Both parties also confirm that there are a number of other alternative venues within the surrounding area which offer useable community space. Furthermore, in response to the proposal I am not aware of any representations from local groups expressing their concern with the loss of the hall, or the need for its retention.

6. During my visit to the appeal property I also saw that car parking was relatively restricted, with formal spaces shared with the police station and a narrow driveway sufficient for only one or two domestic vehicles. On the basis of the evidence presented, it is also clear that the building is in need of substantial refurbishment. As confirmed by a local commercial estate agent, the amount of capital required to improve the hall, combined with the site constraints and alternative venues in the area present largely insurmountable barriers to securing investment, from either new community groups or small scale commercial operators.

7. Although the Council has suggested that the appellant has let the building fall into disrepair in order to secure a planning permission, there is no evidence to substantiate this assertion of purposeful neglect. Instead, based on the information presented, I concur that with only a charity, social group and arts class using the building on an infrequent basis, any significant refurbishment works are clearly going to be difficult to facilitate financially. Despite the lack of a prolonged period of marketing, in this case I am satisfied that there is no longer sufficient demand for the building to secure its long-term future use.

8. Given the current use of the hall, the number of alternative venues in the area, the constraints of the site and the condition of the building, the proposed change of use would not be detrimental to the availability of community facilities. As a result there is no conflict with *High Peak Local* Plan Policy CF2 which permits the change of use of a community building where it is no longer needed. This policy is broadly consistent with the National Planning Policy Framework ('the Framework') which also seeks to prevent the unnecessary loss of valued facilities and services in local communities (paragraph 70). Therefore, for the same reasons, the proposal does not conflict with national guidance either.

Highway Safety

9. Although some car parking spaces are shared with the adjoining police station, access to the Liberal Hall is primarily taken down a narrow driveway to the side of no.3 Hurst Lea Road. Given the width of this driveway, I recognise that there would be no space for cars to manoeuvre and leave the site in a forward gear, and, that visibility along Hurst Lea Road in both directions is restricted. The proximity of parked cars and the adjoining police station would also make reversing out of the driveway difficult, which would be exacerbated if boundaries were to change.

10. However, given the unadopted nature of Hurst Lea Road, vehicle speeds are already very low. I am also mindful that the site has operated for a number of years as a community building using this existing access. Recognising this, the

Highways Authority has raised no objection to the appeal proposal, which, as a conversion into a single 3-bedrooom dwelling would not intensify use of the driveway.

11. Whilst the existing site access may not be ideal, in this case the comings and goings from a single dwelling would not comprise the safety of either pedestrians, or vehicles on Hurst Lea Road. Consequently, there is no conflict with *High Peak Local Plan* Policies H11 or TR5 which require residential developments to promote safe and accessible living environments, and make safe and appropriate provision for access and egress which takes into account parking, access and manoeuvring. These policies are broadly consistent with the Framework and in this regard there is also no conflict with the requirement to ensure a safe and suitable access can be achieved.

Living Conditions – Neighbouring Residents

12. Notwithstanding the principle of the conversion or access to it, by incorporating bedroom windows in the west facing elevation future occupiers would directly overlook the rear gardens of properties along Hurst Lea Road. For the occupiers of no.3 in particular, separated by only a low stone wall, this would cause a significant loss of privacy, to the detriment of their living conditions.

13. Submitted with the appeal is a plan (Reference 1093.04) showing how a fence could be added to the existing boundary wall to remove this overlooking. The appellant has also referred to the ability to erect a 2m fence without the need for planning permission. However, the plan illustrates that the ground levels, which I saw from my site visit vary considerably, are only approximate, have been taken from photographs, and are based on assumptions. Given the accuracy of this evidence, I am therefore not convinced that a fence of 2m would necessarily be sufficient to completely remove overlooking from the bedroom windows, which would be at a higher level. Although a larger fence could be used, no robust details have been provided to confirm how high it would need to be. As a result, I am unable to determine whether or not it would be acceptable in the context of its surroundings, and therefore I am not convinced that it would be reasonable to deal with this by a planning condition alone.

14. It is noted that there are already existing windows on the west facing elevation of the Liberal Club Hall. However, the existing ground floor windows are obscure glazed, and at first floor the window serves a small ancillary office. Given the current level of use presented by the appellant, the main bedroom windows proposed would therefore introduce a materially different and significantly more harmful relationship than either the existing, or likely future use of the building. As a result, the presence of these existing windows does not justify the appeal proposal given the loss of privacy it would cause.

15. Based on the evidence before me, I conclude that the design and layout of the new dwelling would result in a direct loss of privacy for the occupiers of neighbouring properties, to the detriment of their living conditions. The proposal is therefore contrary to *High Peak Local Plan* Policies GD5 and H11 which require developments to ensure that there is no unacceptable loss of general amenity. For the same reason the scheme also conflicts with one of the Core Planning Principles of the Framework which seeks to ensure an adequate level of amenity for existing occupiers of land and buildings.

Living Conditions – Future Occupiers

16. Replacing the existing first floor office window with obscure glazing would result in a living / dining room with no outlook. However, this first floor space would benefit from a large bank of rooflights in the south facing roof slope which would provide a substantial amount of daylight. As a result, although future occupiers would have no outlook, this would not be to the overall detriment of their living conditions.

17. However, by positioning the main bedroom windows on the west facing elevation, future occupiers of the appeal property would also be directly overlooked from the first floor bedroom window of no. 3 Hurst Lea Road. Although the orientation of the terrace is north-south, and views would therefore be at an angle, from a higher level overlooking down into the proposed bedroom windows would be relatively straightforward. From this higher level, the provision of a 2m fence would not remove the possibility of direct overlooking resulting in an unsatisfactory, and harmful relationship between the two properties. Whilst I recognise that existing obscure glazing could be removed, given the current use of the hall and the rooms this glazing currently serve, I am not convinced this would be a realistic alternative, or that it would result in a similar relationship to that proposed.

18. The use of bedroom windows on the west facing elevation would therefore result in an inadequate standard of living accommodation for potential future occupiers, due to the loss of privacy arising from the relationship with no.3 Hurst Lea Road. This aspect of the proposal is therefore contrary to *High Peak Local Plan* Policies GD5 and H11 which require development to ensure that there is no unacceptable loss of general amenity. For the same reason the proposal also conflicts with one of the Core Planning Principles of the Framework which also seeks to protect the amenity of both existing, and future occupiers of land and buildings.

Other Matters

19. I have also noted reference to appeal decision APP/H1033/A/11/2159038, dated 23 August 2012 and taken into account its conclusion on housing land supply. However, the provision of a single dwelling to housing land supply does not justify this proposal given the harm I have identified it would cause. Furthermore, by failing to ensure a good standard of amenity for both existing, and future occupiers of land and buildings the proposal is also not the sustainable development for which there is a presumption in favour.

Conclusion

20. The proposal would not have a detrimental impact on the availability of community facilities, and would not prejudice highway safety. However, by incorporating bedroom windows in the west facing elevation it would result in unacceptable overlooking, to the detriment of the living conditions of both existing, and future residents. For these reasons, and having regard to all other matters raised, including the site's Conservation Area location, the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR