The Planning Inspectorate

Appeal Decision

Site visit made on 16 December 2013

by S Harley BSc(Hons) M.Phil MRTPI ARICS

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

Decision date: 19 December 2013

Appeal Ref: APP/H1033/D/13/2207698
10 Fay Gardens, Hadfield, Glossop, SK13 1QA

- 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 Andrew Whiteley against the decision of High Peak Borough Council.
- The application Ref HPK/2013/0375 was refused by notice dated 9 September 2013.
- The development proposed is retention of cabin to the front of the property.

Decision

1. The appeal is dismissed.

2. The date given at questions 12 and 13 of the planning application form was originally 16 March 1969. This was subsequently amended to 4 July 2013.

3. The development was completed without the benefit of planning permission.

Main issue

4. The main issue is the effect of the development on the living conditions of the occupiers of number 8 Fay Gardens having particular regard to over looking and privacy.

Reasons

Living Conditions

5. The appeal site is at the top of a cul de sac and situated at a much higher level than the road, the two garages at the end of the cul de sac and the house and garden of number 8 Fay Gardens. The cabin is in place at the front of number 10 Fay Gardens. It has double doors with windows facing towards the host property, and 3 windows in the side elevation facing down and along Fay Gardens. Around the cabin is decking wide enough to stand or sit on. As the site slopes so steeply the decking is raised off the ground at the front to make a level platform.

6. Due to the relative heights and positions of the properties it is possible to see into the front first floor windows of number 8 Fay Gardens from the decking and from all the windows of the cabin. There is a clear view albeit the angle is slightly oblique. During my site visit I viewed the cabin from inside number 8. I experienced a significant feeling of loss of privacy arising from the potential to be overlooked from the windows of the cabin and the surrounding deck. I also

stood inside the cabin and on the decking and had a clear view of, and into, the first floor windows of number 8.

7. Calculations/estimates of the distances between the cabin and the windows of number 8 have been given. It is quite difficult to accurately calculate the distances given the steepness of the slope and the relative heights of the properties. However, from my site visit I am satisfied that, whatever the actual distances involved, there would be a significant degree of over looking by occupiers of the cabin and its deck, resulting in a loss of privacy for occupiers of number 8 Fay Gardens.

8. For these reasons the development conflicts with policies GD5 and H14 of the High Peak Local Plan (March 2005, saved 2008) (Local Plan) which seeks to protect against an unacceptable loss of privacy due to over looking. Although these policies are of some age they are in line with the principles of the National Planning Policy Framework (the Framework) which seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

9. Policy H14 of the Local Plan refers to guidelines relating to adequate privacy and amenity but no further information relating to these guidelines has been provided. I cannot therefore conclude in relation to them, but in any event, as set out above, there is an observable issue relating to loss of privacy arising as a result of the development.

10. The appellant considers that over looking can be overcome and has made three suggestions. He has offered to trim the deck to within a few inches of the cabin footprint. This would prevent it being useable as a viewing area and would address that aspect of over looking.

11. The appellant has offered to plant a hedge to obscure views of the neighbours' house. There is already a hedge on part of the boundary with number 8. The appellant has said this is dying off in places and that a new hedge, already established to a satisfactory height, could be planted. In his view this would not affect light to the neighbours because there is a wooded area nearby which is taller than the hedge would need to be. I have seen an annotated photograph indicating new hedge planting and an adjusted photograph that appears to show a new hedge taller than the cabin and planted closer to it than the existing hedge.

12. It is not entirely clear where exactly the proposed hedge would be or what the species would be. I also have significant reservations about whether it would be feasible to plant a hedge tall enough to immediately prevent overlooking, that would become quickly established, would present a solid screen throughout the year, and that could be maintained without any failures and/or die back. My concerns in this respect are reinforced by the appellant's comment that the existing hedge is dying off in places. For these reasons I am not convinced that a hedge would provide an immediate, appropriate solution to the issue of over looking and loss of privacy.

13. The appellant has offered to install obscure glazing in the cabin windows. This would ameliorate over looking and loss of privacy to some degree. However, it would not be effective at those times when the windows and/or doors were open and would not address the perception of being over looked.

14. For the reasons set out above I do not consider that the proposals put forward by the appellant would be sufficient to overcome the issue of overlooking and loss of privacy.

Other matters

15. The cabin is visible in the street scene, behind garages which are at a much lower level, and forward of other properties which can be seen on the skyline. However, as it is set back and relatively modest in scale with a low pitched roof, it is not unduly intrusive in the street scene. Accordingly it does not conflict with policy GD4 of the Local Plan or the principles of the Framework in so far as they seek to ensure developments are sympathetic to the character of the area.

16. I have taken into account the circumstances of the appellant and the desire to have a separate home office which would enhance and improve his and his family's living conditions. He considers this to be in line with the Framework to the extent of empowering local people to enhance and improve places in which they live. However, the Framework also seeks to ensure that developments are in accordance with the development plan and provide a good standard of amenity for all occupiers. In this instance I find that the harm caused by over looking and loss of privacy outweighs the benefits to the appellant of securing additional accommodation in the manner which is the subject of this appeal.

17. The use to which the cabin is, or might be, put appears to be a matter of some speculation and I have no certain information on this. However, this it is not the basis for refusal which relates to the physical aspects arising from the siting of the cabin.

Conclusion

18. For the reasons set out above I conclude that the development has a detrimental effect on the living conditions of the occupiers of number 8 Fay Gardens, particularly with regard to over looking and loss of privacy, and that the proposed mitigation would not be sufficient to overcome the harm caused. The development is therefore contrary to the provisions of Policies GD5 and H14 of the Local Plan and the Framework.

19. Accordingly, and taking all other matters into account, the appeal is dismissed.

SDHarley

Inspector