



Appeal Decision

Site visit made on 23 February 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2022

Appeal Ref: APP/U1050/W/21/3281442

Kinmore, Linglongs Road, Whaley Bridge SK23 7DS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Carol Taylor against the decision of High Peak Borough Council.
 - The application Ref HPK/2021/0015, dated 2 January 2021, was approved on 27 May 2021 and planning permission was granted subject to conditions.
 - The development permitted is 'Proposed new dormer extension to roof space of an existing single storey residence. Application includes creation of two new bedrooms and a bathroom within the existing roof space and a new sliding/folding door'.
 - The condition in dispute is No 4 which states that:
All windows in the dormer window hereby approved shall be fitted with fixed (i.e. non opening) lights and shall be installed with obscured glazing. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as subsequently may be amended or re-enacted) this/these window(s) shall not be altered so as to contain any opening lights or be re-glazed with any transparent materials or enlarged or otherwise altered, nor shall any additional door, window or other opening be formed in that elevation unless a further planning permission has first been granted on application to the Local Planning Authority.
 - The reason given for the condition:
To safeguard the privacy of both the occupants of the adjacent property and of the development hereby approved, in accordance with Policy EQ6 of the High Peak Local Plan 2016 and paragraph 127 of the National Planning Policy Framework.
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Decision

1. The appeal is allowed and the planning permission Ref HPK/2021/0015 for 'Proposed new dormer extension to roof space of an existing single storey residence. Application includes creation of two new bedrooms and a bathroom within the existing roof space and a new sliding/folding door' at Kinmore, Linglongs Road, Whaley Bridge SK23 7DS, granted on 27 May 2021 by High Peak Borough Council, is varied by deleting condition 4.

Background and Main Issue

2. Planning permission was granted for a dormer extension at the appeal property, subject to a condition that the windows were obscurely glazed and fixed shut. This condition was attached to prevent overlooking to and from the adjacent dwelling known as Daleside. The appellant is seeking to erect the approved development without complying with this condition as they deem it to be unnecessary and unreasonable.

3. The main issue is therefore whether condition No 4 is appropriate in respect of the living conditions of occupiers at the appeal property and Daleside with particular regard to privacy.

Reasons

4. The appeal property is a bungalow which, due to the steep topography of the locality, occupies a considerably elevated position above Daleside. The side dormer window on Daleside which faces the appeal property has transparent, openable windows at a comparable height to the opposite bedroom of the appeal property at ground floor level. As such, there is currently mutual overlooking between both dwellings in this regard.
5. Given the changes in topography between the two properties, views from the windows of the approved dormer would be largely over the ridge of Daleside, rather than directly into the rooms served by the dormer or the property's main garden space. Furthermore, the side windows on the approved dormer which would serve habitable rooms would be off-set from the dormer window at Daleside, therefore further limiting the ability for overlooking.
6. Accordingly, the use of transparent glazing and the ability to open the windows would present very limited opportunities for the occupiers of Daleside and the appeal property to overlook one another. Nevertheless, as there is an existing high degree of overlooking, this relationship is already established. Accordingly, the appeal proposal would not result in a significant loss of privacy and thus would not harm the living conditions of occupiers at Daleside or the appeal property. It therefore accords with Policy EQ 6 of the High Peak Local Plan (April 2016) and the National Planning Policy Framework (the Framework) which collectively seek to ensure that developments do not have an adverse effect on amenity.
7. The concerns from occupiers at Daleside, which relate to light and outlook rather than the main issue of this case, do not alter my conclusion.

Conclusion

8. The Framework advises that planning conditions should only be imposed where they meet the six tests outlined in paragraph 56. For the reasons given above, I conclude that condition No 4 is not reasonable, nor is it necessary to safeguard the living conditions of occupiers at Daleside or the appeal property.
9. Accordingly, condition No 4 should be removed and I have therefore allowed the appeal on this basis.

H Ellison
INSPECTOR