

Appeal Decision

Site visit made on 12 June 2024

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2024

Appeal Ref. APP/H1033/D/24/3340443
45 Church Street, Hayfield, High Peak SK22 2JE

- 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 Carl Curran against the decision of High Peak Borough Council.
 - The application ref. is HPK/2023/0413.
 - The development proposed is "*Proposed Balcony and alterations to window*".
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Decision

1. The appeal is dismissed.

Main issue

2. The appeal property is situated within the Hayfield Conservation Area. The Council considered that the proposal, which would include a rear balcony 1.5 m in depth with balustrades of black-painted metal 1.1 m high, would not be harmful to the character and appearance of the building or the Hayfield Conservation Area. I have no reason to disagree.
3. The sole main issue is therefore the effect of the proposed balcony upon the amenity and living conditions of the neighbours at 43 Church Street with regard to the potential for overlooking, loss of privacy and noise.

Reasons

4. The appeal concerns the rearmost elevation of a terraced house which enjoys a picturesque setting on the hillside above the River Sett. There is a dense, close-knit pattern of development hereabouts. This is illustrated by the layout of the appeal site and its surroundings whereby the rear access right of way to no. 45 is through the land of no. 43 and the rear garden of no. 45 extends across the back wall of no. 47, such that it is comprehensively overlooked from several windows and a balcony at no. 47.
 5. Given the local topography, no. 45 presents 2 storeys to the roadside at the front and 3 storeys to the rear. Thus, whilst the rear balcony would be built out off the ground floor study, it would appear at first floor level on the rear elevation. The north-western side of the balcony would reach up to the fencing/gate on the common boundary with no. 43. The balcony floor would be
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- roughly level with the top of those boundary structures and have a floor space sufficient for 2 small tables and 4 seats, according to the submitted floor plan.
6. Users of the proposed balcony, standing, or even sitting, close to the proposed metal railings at the north-western end of the balcony would have commanding, direct and intrusive views from an elevated level down onto the upper patio, lower rear garden and closest rear-facing ground floor window of 43 Church Street. The overlooking would be across short distances and could be for sustained periods given that the balcony would be large enough for sitting out and may become preferable to the outdoor space in the rear garden given the lack of privacy there. On warm days and evenings, such use would be likely to coincide with when the neighbours at no. 43 are also attempting to enjoy their rear garden, thereby exacerbating the overlooking I have found.
 7. Overlooking from the balcony would be of a different character to that from within the study even if, hypothetically, the property was extended so that there was a rear-facing study window in the same place as the outer edge of the proposed balcony. Sizeable and elevated outdoor platforms like this, and the obvious presence of a person or a small group of people outside, regardless of where they might be actually looking, combine to create a much more intrusive feel and a disturbing and intimidating psychological perception of being overlooked. The actual and perceived loss of privacy for the occupiers of 43 Church Street would be unacceptable. The invasive sense of overlooking and loss of privacy would be distinct from the mutual intervisibility currently available over the respective gardens.
 8. There would be potential for noise and disturbance from people using the balcony because they would be in the open air at first floor level above the boundary structures which would readily permit the travel of voices and other noise. This would adversely affect the amenity of the neighbours at no. 43.
 9. I have a great deal of sympathy for the case made by Mr Curran. He is perplexed as to why his balcony proposal should have been refused when no. 47, which it is said is used as an Airbnb property, has a balcony off a kitchen directly above and overlooking his garden. It is also pointed out that there are a number of other balconies around Hayfield. However, I do not have any planning history before me about the balcony at no. 47 or any other balconies in Hayfield. The balcony at no. 47 could well have been there for a considerable period of time, whilst the position of the back garden of no. 45, relative to no. 47, is rather unusual. Whilst the back garden of no. 45 is overlooked from several windows and a balcony at no. 47, this would not justify creating an unneighbourly outcome for no. 43 which currently benefits from a reasonably private and quiet rear garden environment.
 10. I find on the main issue that the proposed balcony would be harmful to the amenity and living conditions of the neighbours at 43 Church Street with regard to the potential for overlooking, loss of privacy and noise. This places the proposal in conflict with the aims of Policy EQ 6 of the High Peak Local Plan 2016 which requires that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of, amongst other things, overlooking and noise. This policy is not inconsistent with the aims of the National Planning Policy Framework or the Council's Residential Design Supplementary Planning Document 2005.

11. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. It has not been suggested that the harm could be properly mitigated by the imposition of planning conditions and it is not outweighed by other material considerations. For the reasons given above and taking into account all other matters raised, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR