

DELEGATED DECISION REPORT

HPK/2024/0433
Valid 21/10/2024

20 CENTRAL DRIVE
BUXTON

RETROSPECTIVE
APPLICATION FOR
ALTERATIONS TO GARDEN
LEVELS AND GARDEN WALLS

(FULL - HOUSEHOLDER)

MAIN ISSUES

- Design, Character and Appearance
- Amenity

DESCRIPTION OF SITE

The application relates to No.20 Central Drive, Buxton, a semi-detached bungalow, that like its neighbour and other half of the block No.22, benefits from a modest rear garden, with the two boundaries characterised by a timber fence. Beyond the rear boundary to the south -west stands No.24 Central Drive, whilst No.18 lies to the north-west.

The site lies within the built-up area boundary of Buxton and is not constrained by any sensitive statutory designation.

Historically, and as evidenced by photos obtained from the Rightmove Estate Agents website (see below), as presented on the existing Site Plan and Section Drawings, the rear garden associated with No.20 Central Drive Buxton was characterised by a section of garden with a finished level of some 300mm above that of the house, which sloped gradually towards a retaining wall that stood at some 250mm, beyond which was a second section of garden continuing to the rear boundary.



As evidenced by photographs from Rightmove above, the section nearest to the boundary with No.22 Central Drive is shown to be broadly consistent with the level of highest part of the garden towards the rear.

More recently, engineering works have taken place within this rear garden which replaces the part of the garden nearest the house with an area of hard standing at a level consistent with the rear elevation and also introduces a retaining wall that stands approximately 1.2m in height, with an area of garden above (see photos below).



PROPOSAL

Further to a complaint received by the Council's Enforcement Team and subsequent investigation, it has been identified that an engineering operations has occurred which has led to the introduction of the retaining wall to the rear of the property. These works have been carried out without planning permission and therefore requires retrospective consent.

This application thus seeks retrospective planning permission for the engineering operations carried out to the rear of the property.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- EQ6 Design and Place Making

Supplementary Planning Documents

Residential Design Guide SPD (2005)
Design Guide SPD (2018)

National Planning Policy Framework 2023

Achieving Sustainable Development Chapter 2
Achieving Well Designed and Beautiful Places Chapter 12

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None

CONSULTATIONS

Publicity

Site Notice expiry date: 4th December 2024
Neighbour consultation period ends: 14th November 2024
Press Advert: N/A

Public Comments

1no. neutral comment has been received from the occupier of No.18 Central Drive, that lies to the east of the site. Points raised within this representation are summarised as follows:

- Garage forms boundary of two properties
- Not informed or consulted as to how works may impact the garage
- Concerned about lack of information and consultation and future issues
- Concerned about what the finished floor level will be, following the demolition of the garage, will it be under the damp proof course, the shared rainwater drain from my garage and how will any residual water drain away.

Town / Parish Comments

N/A

Derbyshire County Council Highways

No objection.

OFFICER COMMENTS

Principle of Development

The application seeks permission for works carried out within the domestic curtilage of an existing residential property that is located on a site within the built up

boundary for Buxton. As such the principle of development is acceptable subject to a detailed assessment of all relevant planning considerations.

Design Character and Appearance

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

Paragraph 135 of the NPPF states amongst other things that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

The site lies within a relatively non-descript housing estate dating from the mid 20th century with no architectural merit, and a relatively low visual sensitivity. The works subject of this application are contained entirely to the rear with only glimpsed views from the street scene.

Due to the modest scale and height of the retaining wall and that the wall is constructed in brick which is broadly consistent with materials used both on site and present on all sides within neighbouring development, it is considered that the design and appearance of the proposals are acceptable and preserve both the character and appearance of the building and wider street scene. The development therefore accords with LP Policies S1 and EQ6, and relevant paragraphs contained under Chapter 12 of the NPPF.

Amenity

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

The High Peak Residential Design Guide SPD requires extensions to preserve the residential amenity of neighbouring properties, having regard amongst other things to the relationship between existing and proposed development, the positioning of windows, and the change in land levels.

Paragraph 135 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

Firstly, it is important to note that the neighbour representation submitted in connection with this application relates to potential impacts to a neighbouring garage, all of which are civil matters not material to the assessment and determination of this application. The neighbour raises concern that advance notice was not given to the works to demolish the adjoining garage and that drainage may prove problematic. Any demolition works and resultant drainage works are a matter which would be dealt with under the Party Wall act, and therefore lie beyond the planning system to address. It was however noted that arco drains have been installed at the bottom of the retaining wall and towards the back of the footway to the front of the property.

It is also noted, that no objection has been received from the occupier of the neighbouring property No.22 Central Drive, that shares a boundary wall with the property and has the greatest potential to be adversely affected by any change in land levels.

Turning firstly to potential impacts to No.18 Central Drive, due to the presence of the garage, which as stated in their representation, marks the boundary of the two properties at the rear, there are no views into or out of the garden area of No.18, and as a consequence, the proposed change in ground levels does not result in any material change to the relationship with this neighbour. Accordingly it does not give rise to any adverse impacts relating to overlooking, loss of privacy, or indeed any other matter relating to amenity.

To the rear of the site stands No.24 Central Drive. This boundary is defined by a fence which stands at a height of approximately 2.1m. The level of the garden immediately adjacent to this boundary remain unaltered compared to what previously existed on site, and as such there would be no material change to the relationship with this neighbour, and thus does not give rise to any adverse impacts relating to overlooking, loss of privacy, or indeed any other matter relating to amenity.

Lastly, the western boundary of the site is shared with No.22 Central Drive, a semi-detached bungalow that shares a partition wall and boundary fence with No.20. As seen on the photographs within this report that show the site prior to and after the introduction of the retaining wall, it is noted that, having regard to Section B-B, the highest part of the garden towards the rear has now as a result of the works, been slightly extended in depth by 2 metres.

In addition, as shown by Section A-A, where previously there was a small step of approximately 200mm down from the highest point of the garden immediately adjacent to this boundary fence, the garden now has a consistent height across its width. As a consequence of these works, the boundary fence stands some 1.4m above the finished floor level of the garden at its shortest point. The retaining wall and raised garden stands some 3.8m away from the rear elevation of No.22, which does not, unlike No.20 benefit from any rear extension. However this area closest to the neighbour was being prepared as a flower bed/grassed area at the time of the officers site visit, and not as a formal patio area. The patio area serving the dwelling is located immediately to the rear of the property. Consequently, it is considered that there would be no adverse harm to this neighbour.

The highest part of the garden previously in existence is broadly consistent with that proposed under this application. The elevated garden is situated in the half of the rear area of amenity space that is furthest away from the rear elevation of the neighbouring property, with the boundary fence maintained at a height of 1.4m. It is noted that the occupiers of this neighbouring property have not objected to this application. Given all of these factors it is considered that there would be no degree of harm to the amenity of this or indeed any other neighbouring property with regards to matters of overlooking, loss of privacy, or any other aspect, that amounts to a credible or substantive reason for refusal.

The greatest change in the land levels is towards the rear elevation of the property, where land has been excavated, and overall ground levels lowered with a newly created retaining wall supporting the raised garden area to the rear. In terms of residential amenity, this significantly benefits all neighbours as the ground closest to the property is much lower than the original level.

As such, it is considered that the works subject to this retrospective application do not give rise to any adverse harm to residential amenity in accordance with LP Policy EQ6, the Residential Design Guide SPD, and relevant paragraphs under Chapter 12 of the NPPF.

Other Matters

Nutrient Neutrality

The site lies within the catchment of the River Wye which forms the Peak District Dales Special Area of Conservation (SAC). The Council has been notified that action must be taken to address exceedances of phosphorus in the River. As such, the Council cannot grant consent for development unless it can rule out “likely significant effects” on the SAC. A Habitats Regulations Assessment (HRA) will be required when the plan or project creates a source of water pollution or has an impact on water quality and when it is within the catchment of the SAC. Initially, a screening assessment will be required to consider if “likely significant effects” (alone or in-combination) on the SAC can be ruled out. If not, this will be followed by an “Appropriate Assessment” where the impact of the plan or project is considered in detail.

Screening Assessment

The proposal is not directly connected with or necessary for the conservation management of a European site. The proposal will not increase overnight stays or surface water run-off from the site. Therefore it will not risk having a significant negative effect on the SAC either on its own or in combination with other proposals and therefore it is not necessary to carry out an Appropriate Assessment.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework. It states that planning

applications that accord with relevant policies in the Local Plan will be approved without delay.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks retrospective planning permission for engineering works to facilitate changes to a domestic garden contained within the existing residential curtilage on a site not constrained by any statutory designation. As such the principle of development is acceptable.

An assessment of the application has concluded that the proposed works are acceptable with regards to their design and appearance and do not give rise to any adverse harm to neighbouring residential amenity, when taking account of all material considerations.

As such, the application is considered to constitute a sustainable form of development and in line with LP Policy S1a and paragraph 11 of the NPPF is recommended for approval.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 5th December 2024

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council