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## Appeal Decision

Site visit made on 2 October 2017

**by Elaine Worthington BA (Hons) MTP MUED MRTPI**

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

**Decision date: 24<sup>th</sup> October 2017**

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**Appeal Ref: APP/H0928/W/17/3174507**

**Methodist Church, Chapel Lane, Kirkby Thore, CA10 1UH**

- 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 B Thornborrow, Methodist Circuit, against the decision of Eden District Council.
  - The application Ref 16/0480, dated 12 May 2016, was refused by notice dated 31 October 2016.
  - The development proposed is the change of use of a former Methodist chapel to single dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are:
  - Whether the proposal would provide adequate living conditions for existing and future occupiers, with particular reference to privacy; and
  - The effect of the proposal on highway safety, with particular reference to car parking and visibility.

### Reasons

#### *Living conditions*

3. The appeal property is a single storey former chapel building which flanks Chapel Lane and is surrounded by residential properties.
4. The Council's Housing Supplementary Planning Document (SPD) provides guidance for privacy/separation distances. It states that as a general guide, principal windows on a new or extended property should not be less than 21 metres from any directly facing windows in another property. This is to ensure reasonable privacy is provided for both the new house (or extended house) and neighbours.
5. The appeal building's existing windows, which are currently obscure glazed, would be utilised. There are two to the front (south) elevation and two to the rear (north) elevation. From inside the chapel these are at a high level and are positioned around 1.7 metres above the internal floor level.

6. The upper parts of the windows would be obscure glazed. In the case of those to the western half of the building, that upper part of the windows would be in any event for the most part at floor level in the proposed new upper floor of the building where the bedrooms would be provided. The lower parts of the windows would serve the ground floor of the building. Although not shown on the plans, the appellant advises that the bottom sections of these could also be obscure glazed and I am satisfied that this could be secured via a planning condition. This would leave a section of clear glazing in the main middle part of all the windows.
7. Burwens, a two storey traditional end of terrace house, adjoins the appeal site to the south. It is set at a lower level to the appeal property and has two first floor rear windows facing its front elevation. Whilst one is obscure glazed the other serves a bedroom. The rear elevation of Burwens has very close and direct facing relationship with the front of the appeal property.
8. From the western front window of the appeal property, despite the property's porch, the appellant accepts that some oblique views would be possible of Burwens' first floor bedroom window which would be about 10 metres away. Moreover, from the appeal property's eastern front window, direct views of Burwens' first floor bedroom window would be possible at a distance of only 8 metres. This situation would fall well short of the SPD guidelines in terms of separation distances.
9. Even taking into account the high level nature of the appeal property's windows and the proposed obscure glazing of the upper and lower sections of them, it seems to me that there would be considerable close range inter-visibility between the appeal property's proposed kitchen/dining room and Burwens' bedroom. This would give rise to serious overlooking between the existing and proposed dwellings and provide an unsatisfactory level of privacy. This would be to the extent that the occupiers of those rooms would be unlikely to feel comfortable there.
10. In terms of the relationship between the proposal and the terrace of properties to the north at Somerset Terrace, I accept that the separation distances required by the SPD would also not be achieved. Nevertheless, these properties are set much further away from the appeal property than Burwens with an intervening access way along with rear gardens and boundary enclosures. On this basis, and having regard to the high level nature of the windows and the obscure glazing sections proposed, I am not persuaded that any undue overlooking between those properties and the future occupiers of the appeal property would arise. However, this does not alter the harm that I have identified in terms of the proposal's relationship with Burwens.
11. I therefore conclude on this main issue that the proposal would fail to provide adequate living conditions for existing and future occupiers, with particular reference to privacy. This would be contrary Policy CS18 of the Eden District Council Core Strategy Development Plan Document (Core Strategy) which requires new development to demonstrate that it protects the amenity of existing residents and business occupiers and provides an acceptable amenity for future occupiers (criterion 5). It would also conflict with core planning principle of the National Planning Policy Framework (the Framework) to always seek to secure a good standard of amenity for all existing and future occupiers of land and buildings.

### *Highway safety*

12. The proposal was amended during the Council's consideration of the planning application to show a two bedroom dwelling with two car parking spaces immediately to the front of the building. As such, the Council accepts that the proposal would meet Cumbria County Council's Parking Guidelines in Cumbria 1997. Despite this, the Highway Authority considers that the proposed dwelling would not be served by an adequate level of in curtilage parking for the location, which may result in vehicles being parked outside the site to the detriment of the free flow of traffic and road safety. No further details as to its concerns are provided.
13. To my mind, the provision of two parking spaces would be sufficient for the relatively modest two bedroom property and would meet the Parking Guidelines. I am also conscious of the appeal property's location close to nearby services including the village shop and post office which are estimated by the appellant to be within a two minute walk. The Parking Guidelines also confirm that a reduced level of provision can be considered where the site is well located to existing services and therefore reliance on private vehicles is reduced. Taking all these factors into account, I consider the level of parking proposed to be appropriate and see no reason why any unduly high levels of on-street car parking that would be harmful to road safety would be likely to arise as a result of the proposal.
14. In terms of visibility, the access and a smaller parking area already exist. On leaving the site, despite the boundary hedge, views to the left of oncoming traffic are possible down much of Chapel Lane towards its junction with Main Road. However, visibility to the right is severely restricted by the appeal building itself which is sited hard up to the edge of Chapel Lane. As such, users of the access would have limited visibility of vehicles approaching from the north along Chapel Lane and vice versa.
15. That said, I am mindful that although the appeal property is no longer in use, it benefits from a lawful use under Class D1 (non-residential institutions). It has been used for a Sunday service, a playgroup and a young persons' group. These would have been likely to have given rise to some vehicular movements including dropping off, picking up and parking. That use is subject to no restrictions in terms of opening days or times or numbers of visitors.
16. Whilst the proposed residential use would in my view be likely to lead to a more sustained and regular use of the access, the proposal is limited in scale to a single two bedroom dwelling. The number of vehicle movements per day would not be great and would also be likely to be tempered by the site's proximity to the village's services and facilities. In this context, and against the backdrop of the building's established use, I am not convinced that the use of the access would be increased greatly.
17. Chapel Lane is narrow, serves only a limited number of properties and is not busy with traffic. There are a number of other accesses to residential properties nearby where visibility is restricted. Accordingly vehicles tend to drive slowly in Chapel Lane. Additionally, to aid visibility, the appellant suggests the provision of a mirror on the opposite side of the road to allow drivers leaving the appeal property to look along the lane to ensure it is clear prior to exiting. This could be secured via a planning condition.

18. Having regard to all these matters, I am not convinced that the proposal would increase the use of the access unduly, or worsen the existing situation in terms of visibility to any significant degree. As such, nor am I persuaded that it would lead to any undue additional danger to the users of the road, or result in any harmful increase in the potential for conflict between vehicles, or between vehicles and pedestrians.
19. I therefore conclude overall on this main issue that the proposal would cause no harm to highway safety, with particular reference to car parking and visibility. I see no conflict with Core Strategy Policy CS18 which requires new development to demonstrate that it provides safe access to the site by a choice of means of transport and meets the access needs of all users, particularly pedestrians, cyclists, disabled people and the elderly (criterion 9). Nor would it be at odds with paragraph 32 of Framework which requires that safe and suitable access to the site can be achieved for all people.

#### *Other matters*

20. As a former Wesleyan Methodist chapel which retains many original features, the County Archaeologist regards the appeal property to be a heritage asset of local architectural and historic significance. Paragraph 131 of the Framework requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
21. The proposal's removal of the building's existing front lean-to extension would enhance its appearance. Additionally the proposal would see the re-use of the building and secure its future. These are benefits of the scheme. However, I have seen no substantiated evidence to demonstrate that the existing use could not re-commence or that a different scheme that would not cause harm to the living condition of nearby occupiers could not be realised. As such, I cannot be satisfied that these benefits could not arise from an alternative proposal, and this limits the weight that I afford them.
22. The appellant refers to the Council's lack of a 5 year supply of deliverable housing sites. I accept that the proposal would make a contribution to housing land supply and that this is a benefit of the scheme. However, given its limited scale for a single dwelling only, its role in this regard would not be great. Consequently, even taken together, these benefits of the proposal are insufficient to outweigh the harm that I have identified in relation to the first main issue.

#### **Conclusion**

23. I have found that the proposal would cause no harm to highway safety, with particular reference to car parking and visibility. The absence of harm in this regard counts neither for, nor against, the proposal. I have also concluded that the proposal would fail to provide adequate living conditions for existing and future residents, with particular reference to privacy. Even taking into account the benefits of the scheme, this in itself provides compelling grounds to resist the proposal. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Elaine Worthington*

INSPECTOR