



Appeal Decision

Site visit made on 22 July 2019 by S Watson BA (Hons) MSc

Decision by Andrew Owen MA BA(Hons) MRTPI

Inspector appointed by the Secretary of State

Decision date: 3 September 2019

Appeal Ref: APP/P3420/W/19/3228556

149 High Street, Silverdale, Newcastle Under Lyme ST5 6LR

- 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 Chris Sanders against the decision of Newcastle-Under-Lyme Borough Council.
 - The application Ref 18/00618/FUL, dated 3 August 2018, was refused by notice dated 12 November 2018.
 - The development proposed is detached dwelling in ex garden.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The decision notice given by Newcastle-Under-Lyme Borough Council originally included a refusal reason regarding a requirement for a financial contribution to be provided. However, the Council has now withdrawn this refusal reason. I shall not therefore consider this reason for refusal as part of the appeal before me.
4. Plans relating to a pre-application request, made after this proposal was refused, have been submitted with the appeal. I have considered the revised drawings under the principles established by the Courts in *Wheatcroft*¹. The Council or any other interested party has not had the opportunity to comment on the revised drawings and so for me to consider them would deprive those who should have been consulted on the change, the opportunity to comment. I have therefore determined the appeal on the basis of the drawings considered by the Council.

Main Issue

5. The main issue in this case is whether the proposal would provide satisfactory living conditions for its future occupiers, by way of privacy.

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]

Reasons for the Recommendation

6. The appeal site is at the back of the rear garden serving No 149 High Street and fronts on to Park Road, to the south of the site. There is a significant drop in land levels between Park Road and High Street with a retaining wall between No 149 and the appeal site accommodates most of the change in levels. A house is currently being built within the side garden of No 149.
7. The appeal proposal is for the erection of a detached chalet bungalow fronting on to Park Road with a garden area to the north side between the bungalow and the existing dwellings on the High Street.
8. The two first floor rear windows at No 149 and the first floor rear window at the dwelling currently being constructed would, by way of their siting so close to the proposed chalet bungalow, result in an unacceptable level of overlooking. In this way users of the rear garden and the lounge/kitchen in the proposed bungalow served by the rear window would have little privacy. I consider that the change in land levels would not mitigate against overlooking and I am not convinced, from the information available to me, that the provision of a fence would be sufficient to screen the rear garden or windows from overlooking from the first floor windows at No 149.
9. It has been raised that the impact from overlooking and the loss of privacy would not be unacceptable as the room affected is not a bedroom and, as there is a second window serving the room, it is not a principal window. However, the guidance set out in the Supplemental Planning Guidance: Space Around Dwellings (SPG) considers the privacy of kitchens, lounges and bedrooms to be equally important. Furthermore, irrespective of which window serving the lounge/kitchen is the primary one, the rear window is full-sized and clear glazed, and so users of this room would therefore be susceptible to overlooking. I therefore consider that these matters do not mitigate the harm I have found above.
10. In light of the above I consider that the proposed dwelling would fail to provide satisfactory living conditions for its future occupiers. The proposal would therefore conflict with Paragraph 127(f) of the NPPF and the guidance contained within the Council's SPG, which collectively seek development to provide a high standard of amenity, both internally and externally, for existing and future occupiers.

Other Matters

11. It has been raised that there was no communication from the Council during the pre-application request and that this has resulted in the appeal. However, I am not aware of the full circumstances of the pre-application request or any associated discussions. Nevertheless, I consider it to have little weight in the determination of the planning merits of the proposal.

Conclusion and Recommendation

12. For the reasons given above I recommend that the appeal should be dismissed.

S Watson

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and concur that the appeal should be dismissed.

Andrew Owen

INSPECTOR