
Appeal Decision

Site visit made on 19 August 2019 by Hannah Ellison MSc BSc (Hons)

Decision by Susan Ashworth BA (Hons) BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2019

Appeal Ref: APP/W0910/D/19/3230631

79 Romney Park, Dalton-in-Furness, Cumbria, LA15 8BN

- 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 Jason Durkin against the decision of Barrow-In-Furness Borough Council.
 - The application Ref B21/2019/0009, dated 4 January 2019, was refused by notice dated 16 April 2019.
 - The development proposed is a two-storey side extension to provide a larger kitchen, utility and downstairs cloakroom to ground floor along with en-suite bedroom to first floor.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Jason Durkin against Barrow-In-Furness Borough Council. This application is the subject of a separate Decision.

Appeal Procedure

3. 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 Matter

4. Since the application was determined and the appeal submitted, the Council has adopted the Barrow Borough Local Plan 2016-2031 (the Local Plan). The reason for refusal references the policy of the then emerging Local Plan as it was at that time and the appellant has been able to make an assessment of the scheme against the emerging policy in the appeal statement. Furthermore, both main parties have been given an additional opportunity to comment on the change to the development plan and I have had regard to any views expressed. It is my duty to determine the appeal against the most up to date development plan policies and I am satisfied that no party has been prejudiced by the consideration of the appeal proposal against the policies of the now adopted Local Plan.

Main Issue

5. The effect of the proposal on the living conditions of occupiers at No.81 Romney Park, with particular regard to outlook and daylight.

Reasons

6. The appeal site comprises a two-storey semi-detached dwelling, occupying an elevated position above the highway and the adjacent detached bungalow. The proposed development would extend the host property to the side at ground and first floor level.
7. Policy H16 of the Local Plan states that extensions to dwellings will be permitted unless they adversely affect the amenities of neighbouring properties by virtue of an undue loss of sunlight or daylight or by the creation of an overbearing impact or unacceptable level of enclosure.
8. In this case, the extension would project beyond the side elevation of the host property and would be within close proximity to a side window of No.81 Romney Park. This window serves a bedroom, a habitable room, and is the only form of outlook to that room. Whilst the appeal property has an existing single storey side extension, this is positioned at a further distance from the neighbouring window. This proposal would see the interface distance between the properties reduce to approximately 2.4m and in addition the bulk and massing of the building would be significantly larger when viewed from the window. This would result in an uninviting outlook and create an oppressive living environment within the bedroom.
9. Further, whilst it is acknowledged that the overall height of the proposal has been reduced, to reflect a gradual step down between the properties, as the bungalow is located on a lower level to the appeal property the side wall of the proposal would remain of a substantial height, and thus result in an overbearing sense of enclosure to occupiers at No.81.
10. Reference has been made to other limited interface distances within the area. I do not have the full details of all of these cases before me and cannot be sure that the exact circumstances, the context or policies against which they were approved, are the same as the proposal before me. In some instances, there is a significant difference in circumstances. For example, in the case of 24 South Row is a non-habitable room with a dual aspect. At Sherborne Avenue the two dwellings appear to both be part of a new build development, and buyers would be aware of the outlook to the third bedroom. In terms of Friars Lane, information about the existing building and how it functions is limited. In any event, the instances that have been drawn to my attention are not necessarily good examples of development to follow. Moreover, notwithstanding these cases, the appeal has been determined on its own merits in the light of the current policy and guidance.
11. It is noted the bedroom window of No.81 is south facing and thus benefits from some direct sunlight. Indeed, I observed this at the time of site visit. Policy H16 seeks to ensure extensions will not adversely affect the amenities of neighbouring properties by an undue loss of sunlight or daylight. Both parties agree the proposal would not impact on sunlight and I have no reason to find otherwise, however this has a neutral impact on the main issue.

12. Turning to the matter of daylight, it is acknowledged the existing relationship between the two properties results in already reduced diffused daylight levels, when assessed against recognised British Research Establishment (BRE) tests. As noted from the submitted daylight assessment, the proposed extension would further reduce the amount of light to below the recommended 27% target. However, the reduction from current levels remains marginally above the 80% recommended reduction factor.
13. It is noted the daylight assessment has not been carried out by a qualified surveyor or generated using computer software. Whilst there may be some concerns with the accuracy of the figures, I have not been provided with firm evidence that the findings are considerably incorrect. Nevertheless, due to the south facing orientation of the bedroom window and the reduced ridge height of the extension, when compared with the existing relationship between the dwellings this proposal would not result in such a significant loss of diffused daylight that would harm the living conditions of occupiers at No.81.
14. Consequently, taking all the above into consideration, whilst I do not find that the proposed development would impact on sunlight or daylight reaching the bedroom window of No.81 Romney Park, it would harm the living conditions of its occupiers in terms of outlook and this is sufficient to justify dismissing the appeal. It would therefore conflict with Policy H16 of the Local Plan and would also be inconsistent with the National Planning Policy Framework 2019 (the Framework), particularly chapter 12, which seeks to ensure developments create places that are safe, inclusive and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

15. It is acknowledged the objection to the original proposal was subsequently withdrawn following receipt of amended plans. Nevertheless, a lack of opposition for a proposal is not a ground for granting planning permission. I acknowledge that the proposal would, by removing an existing facing window, have the potential to improve privacy. However, this does not outweigh the harm I have identified.
16. Concern has been raised regarding the Council's processing of the planning application, particularly regarding treatment at the committee meeting. However, these are not matters for deliberation in the context of a planning appeal and the recommendation is based on the information before me.
17. I have also had regard to the appellant's concerns that the planning application was not determined against adopted policy. However, paragraph 48 of the National Planning Policy Framework 2019 makes it clear that great weight can be given to relevant policies in emerging plans if the plan is at an advanced stage of preparation. Notwithstanding this, as set out in the procedural matters above, it is my duty to determine the appeal in accordance with the most up to date development plan policies, on which the appellant has had the opportunity to comment.

Conclusion and Recommendation

18. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

Hannah Ellison

Appeals Planning Officer

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Susan Ashworth

INSPECTOR