



Appeal Decision

Site visit made on 22 October 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 4th December 2019

Appeal Ref: APP/Q9495/W/19/3230758

Rooking Oaks, Patterdale, Penrith CA11 0NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Sabine Mosner against the decision of Lake District National Park Authority.
 - The application Ref 7/2019/3047, dated 13 March 2019, was approved on 08 May 2019 and planning permission was granted subject to conditions.
 - The development permitted is Raising roof of existing detached bungalow to create habitable attic space. Removal of an existing conservatory. Landscaping to include a paved terrace.
 - The condition in dispute is No 3 which states that: *Before the development hereby permitted is brought into use the first floor window in the north west elevation shown on the approved plan 1802.21 rev F shall be glazed with obscure glass (to Pilkington obscurity level 5, or equivalent).*
 - The reason given for the condition is: *To safeguard the amenities of the adjacent property in accordance with the provisions of the National Planning Policy Framework.*
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. Planning permission was originally granted in 2019 for the extension of Rooking Oaks to create additional internal living accommodation which includes first floor bedrooms at either end of the property. The permission includes a condition requiring obscure glazing in the first floor window in the north west elevation to prevent overlooking of the neighbouring property, Dalegarth. The application subject of the appeal proposed to vary Condition No 3 to remove the requirement for obscure glazing and allow clear glass in the bedroom window.
3. Although the planning permission has been implemented, the works were not completed at the time of my visit and I was therefore able to look out of the north west window opening. I also saw that works were being carried out to Dalegarth under planning permission 7/2017/3165, for replacement rear and side extensions, minor access alteration, replacement septic tank. Although full details of that permission are not before me, I understand that the side extension facing the appeal property would house a pool. On that basis, it would not be a habitable room for the purposes of overlooking. However, there is a lack of clarity in terms of whether or not the approved side extension will be built.

4. Therefore, I have determined the appeal on the basis of what is shown on the plans. In this respect, although there is no evidence before me about the existing room in the side elevation of Dalegarth, I have taken a precautionary approach and assumed that it is a habitable room.

Main Issue

5. The main issue is whether Condition No 3 is reasonable and necessary to protect the living conditions of the occupiers of the adjacent residential property, Dalegarth.

Reasons

6. As built, Rooking Oaks was a detached single storey property. It is set in a large sloping plot and it is in an elevated position above, and widely spaced from, the neighbouring properties to either side.
7. There is considerable variation in the style and siting of the 3 neighbouring properties relative to one another. Consequently, and notwithstanding the similarly large separation distances to either side, Rooking Oaks has a very different relationship with The Rookings and Dalegarth. In this respect, the first floor window in the side elevation of the appeal property closest to the Rookings allows only oblique views towards the small traditional windows in the rear of that property. However, the other side elevation of the appeal property is angled towards Dalegarth. Therefore, the bedroom window in this elevation would allow for more direct overlooking into parts of the garden and, more significantly, the large window in the side elevation of Dalegarth.
8. Given its height and location, occupiers would need to be standing close to the appeal window in order to look out and down towards Dalegarth. In general, occupiers might be expected to spend less time standing to look out of a bedroom window than they would looking out from a living room or kitchen window. However, in this case, the window affords spectacular views of the fells and mountains of the Lake District. Accordingly, I consider that occupiers would be likely to spend a greater proportion of time at that window than they might otherwise, with consequent increased opportunities for incidental overlooking of the occupiers of Dalegarth.
9. While I accept that the distance between the properties is large, the evidence before me indicates that Dalegarth has not been overlooked previously. Consequently, overlooking from the first floor window in the appeal property would result in a loss of privacy for the neighbouring occupiers. On this basis, the requirement for obscure glazing to the north west bedroom window is necessary to protect the living conditions of the occupiers of Dalegarth.
10. With the exception of the window in the north west elevation, the bedroom has no other windows except for 2 reasonably small roof lights in the front roof slope which provide views of the sky. The use of obscure glazing in the side window will result in some reduction in light levels in the bedroom and it will limit the outlook. However, there is nothing before to demonstrate that the reduction in light levels would be significantly harmful to the occupiers of the bedroom. Moreover, while I appreciate that the appellant does not want to lose the views from the window, it is not uncommon for rooms in loft extensions to be served by velux windows in roof slopes. For these reasons, I am not persuaded that the use of obscure glazing would result in significant harm to

the living conditions of the occupiers of Rooking Oaks or that any such harm would outweigh the harm to the living conditions of the occupiers of Dalegarth.

11. Therefore, I conclude that Condition No 3 is reasonable and necessary to protect the living conditions of the occupiers of Dalegarth, with particular regard to overlooking. Notwithstanding that there are no relevant development plan policies, the condition is necessary to ensure compliance with policies in the National Planning Policy Framework that require development to ensure high standards of amenity for existing and future users.

Other Matters

12. While there were no objections to the proposal from third parties, including the neighbours, there were no letters of support. I am in any case required to be mindful of the proposal over its lifetime and of the way in which future occupiers of the neighbouring property might reasonably expect to enjoy their home free from overlooking.

Conclusion

13. For the reasons set out above, the appeal should be dismissed.

Sarah Manchester

INSPECTOR