
Appeal Decision

Site visit made on 6 July 2020

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2020

Appeal Ref: APP/H0928/W/20/3247919

Rynrew Barn, Newton Reigny, Penrith CA11 0AY

- 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 John Davidson against the decision of Eden District Council.
 - The application Ref 19/0500, dated 8 July 2019, was refused by notice dated 10 September 2019.
 - The development proposed was originally described as a one and a half storey three bedroom detached residential dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Davidson against Eden District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues for the appeal are:
 - The effect of the proposed dwelling on the living conditions of occupants of nearby properties with particular regard to outlook, and/or privacy; and
 - Whether the proposed dwelling would be in a suitable location having regard to local planning policies concerned with housing in rural areas.

Reasons

Living conditions

4. The irregularly shaped appeal site consists largely of areas of domestic garden and parking. The proposed one and a half storey dwelling would be situated within an enclosed garden area in close proximity to the neighbouring Meadow Cottage, itself a one and a half storey dwelling. The private amenity space for Meadow Cottage is provided by a modest garden area to the front of its west gable. I saw at my site visit that this garden area is accessed via patio type doors which open out onto a small paved area.
5. The proposed dwelling would project beyond the west gable of Meadow Cottage and would be sited close to the common boundary for much of the length of the garden area of Meadow Cottage. Being of one and a half storeys, the proposed dwelling would be considerably higher than the existing timber

boundary fence. Consequently, the appeal scheme would present a significant area of wall close to the common boundary with Meadow Cottage and alongside most of its garden. Therefore, it would give rise to an unacceptable sense of enclosure and would have harmful effects on outlook for the occupiers of Meadow Cottage. Although the proposed dwelling is situated to the north of Meadow Cottage, it would also have a minor harmful effect in terms of loss of light to the cottage, both to windows and the garden area.

6. The proposed dwelling would extend out close to the boundary with the garden of Saddleback Barn and would have a Juliet type balcony on the north elevation serving a bedroom. This would face towards the neighbouring gardens of Saddleback Barn and beyond to that of Blencathra Barn. The existing hedge would effectively screen the proposed ground floor windows and doors and such screening could be secured by way of a planning condition were I minded to allow the appeal. However, the proposed Juliet balcony would, despite the height of the hedge and difference in levels, give rise to overlooking of the neighbouring gardens and dwellings causing a loss of privacy. I acknowledge that there will already be mutual overlooking between neighbouring properties, but find that the proposed dwelling would give rise to an unacceptable loss of privacy for the occupiers of Saddleback Barn and Blencathra Barn.
7. The proposed dwelling would be adequately separated from Rynrew Barn. The privacy of the occupiers of Rynrew Barn and future occupiers of the proposed dwelling could be adequately addressed by way of a planning condition to ensure that windows on the elevation facing Rynrew Barn were obscure glazed and non-opening were I minded to allow the appeal.
8. The appellant has referred to an appeal decision¹ but I have limited details and do not know what information was before that Inspector. However, even if the development and circumstances are similar, it should not provide an example that should inevitably be followed given the harm found. Additionally, I have had regard to the Council's Supplementary Planning Document Housing, but that does not lead me to a different conclusion on this matter.
9. The proposed dwelling would give rise to harm to the living conditions of the occupants of nearby properties contrary to Policy DEV5 of the Eden Local Plan 2014-2032 (ELP) which includes, amongst other things, that new development optimises the potential use of the site and avoids overlooking and protects the amenity of existing residents and business occupiers and provides an acceptable amenity for future occupiers. The proposal is also contrary to the National Planning Policy Framework, which in paragraph 127 includes, amongst other things, that planning decisions should ensure that development creates places that are safe, inclusive and accessible, which promote health and well being, with a high standard of amenity for existing and future occupiers.

Whether the proposed dwelling would be in a suitable location

10. ELP Policy LS1 sets out the settlement hierarchy for the District. Newton Reigny is one of the Smaller Villages and Hamlets where in principle development of an appropriate scale, which reflects the existing built form of the settlement and adjoining and neighbouring development to the site, and the service function of the settlement, will be permitted in defined circumstances. In particular, Policy LS1 includes that development in Smaller

¹ APP/G4240/D/14/2224097

Villages and Hamlets will be restricted to infill sites, which fill a modest gap between existing buildings within the settlement. ELP Policy HS2 is concerned with housing in Smaller Villages and Hamlets where housing development would be permitted should a number of criteria are met, relating to whether the proposal constitutes infilling and rounding off of the current village settlement pattern, the size of the resultant dwelling and regarding the development of 'greenfield' sites and use of local occupancy restrictions.

11. Firstly, I am satisfied that the appeal site is situated within the settlement of Newton Reigny. However, the nature of the existing pattern of development is such that the assessment of whether the proposed development would infill a modest gap between existing buildings requires careful exercise of planning judgement, given that the terms 'infill' or 'modest gap' are not defined in the ELP. Whilst Rynrew Barn and Meadow Cottage are situated to two sides of the site of the proposed dwelling, there is the garden of Saddleback Barn and a track with the garden of Beckside House beyond to the other sides. On balance, I find that rather than being in a modest gap between buildings, the proposed dwelling would be situated in a garden area which forms part of a wider gap including neighbouring gardens.
12. The appellant has drawn my attention to the pre-application advice and planning permission granted by the Council for 3 dwellings on land adjacent to Beckside House, which I note previously had planning permission for a bungalow. However, from the information provided, I consider that the circumstances are not the same as those before me and this information does not therefore lead me to a different conclusion in this appeal.
13. To conclude on this matter, the proposed development would not be in a suitable location and is contrary to ELP Policies LS1 and HS2.

Other matters

14. I have taken into account the evidence in regards to the appellant meeting the local connection criteria set out in ELP Policy HS2. I also have had regard to the intention of building the dwelling as a self-build / design and build sustainable home. These factors do not however lead me to a different decision.
15. I have also taken into account the comments made regarding inaccuracies in the Council Officers report. Any such errors have not however led me to a different decision. The comments made regarding the Council's handling of the planning application and inconsistency in its decision making are matters for local government accountability.

Conclusion

16. For the reasons given above and having considered all matters raised, the appeal is dismissed.

Philip Lewis

INSPECTOR