

Appeal Decision

Site Visit made on 12 July 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2021

Appeal Ref: APP/G0908/W/21/3270521

Barncroft, 16 High Seaton, Workington, Cumbria CA14 1PB

- 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 Deo Properties Ltd against the decision of Allerdale Borough Council.
 - The application Ref FUL/2020/0043, dated 5 February 2020, was refused by notice dated 23 December 2020.
 - The development proposed is described as 'residential development comprising of three detached 'dormer' dwellings, with garages and associated access drives, landscaping and alteration of existing access'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed dwelling 'Type A' on the living conditions of the occupants of No 17 High Seaton with particular reference to privacy, outlook, sunlight and daylight.

Reasons

3. The proposal is for the erection of three dwellings within the garden of 16 High Seaton. Type A, a two-storey dwelling would be sited between the existing dwelling at No 16 and the neighbouring property of 17 High Seaton, whilst Type B and Type C would be positioned further to the south east.
4. On the site visit I saw that there is a significant change in levels between No 17 and the appeal site. The boundary between the appeal site and the garden of No 17 is defined by a pair of parallel concrete block retaining walls that are separated by a partially filled central area. Both retaining walls extend some way above the ground level of No 17 forming a pair of low walls of a similar height to one another to this side. No 17 has two windows serving habitable rooms that look over the appeal site. These consist of a pair of patio doors serving the living room and a window serving the kitchen diner. The patio doors open out onto a narrow gravelled area to the side of the dwelling that can be accessed from the rear garden. The bulk of the other windows in this dwelling look towards the front and rear gardens. The latter is raised above the level of the dwelling and its adjacent patio and accessed by steps.
5. A single window in the gable of the proposed Type A dwelling facing No 17 is proposed to be obscure glazed. Its proposed north west elevation and its windows would be perpendicular to No 17. As such, any views from the windows of Type A towards those of No 17 would be extremely limited. I am

therefore satisfied that the relationship between the two properties would be acceptable with regard to the privacy of opposing windows.

6. Turning to the proposed garden area, in my view, outside activities at the proposed Type A dwelling, such as sitting outside, would be likely to be concentrated around the doorway from the living room into the garden to the north west. At this point, it would be possible to look across at the elevated patio doors of No 17 from a reasonably short distance. Standing in this position on the site visit I was able to view the interior of No 17. The concentration of the outdoor activities in such close proximity to No 17, allowing an increased potential for the overlooking of that property would result in an unacceptable relationship and would adversely affect the privacy of the occupants of No 17.
7. I have considered whether this issue could be addressed through imposing a condition requiring provision of a fence on top of the existing retaining wall. Drawing 05050 Rev 02 appears to show a fence in section form between a section of banking and the narrow strip of land between No 17 and its boundary with the appeal site.
8. However, the retaining walls are not shown on the proposed drawings. Whilst it may be that part or all of the walls are proposed to be obscured by the section of banking that is shown on drawing 05050 Rev 02, there is also no indication of the walls extending above the ground level of No 17 as exists at present. In the absence of any existing section plans it is not clear what is proposed with regard to the two retaining walls at the site, or whether they are to be reduced or modified in some way. I am required to base my assessment on the plans before me. However, in the absence of clear and detailed plans with regard to this issue I cannot be certain that it is possible to provide a fence as shown, or whether a condition requiring a fence would be capable of being complied with, nor can I be sure of the precise effect of such a fence on the occupants of No 17.
9. I am mindful of the existing use of the appeal site as a garden serving No 16 and the established relationship between the two properties. However, the existing garden is large and the dwelling of No 16 is sited some distance away from the patio doors of No 17. Any outdoor patio areas and outdoor activities are likely to take place sufficient distance away from the patio doors at No 17 so as to avoid significant levels of overlooking. Given the large area of the garden, its use by the occupants of No 16 is much more likely to be more spread out across that area rather than being concentrated close to the boundary with No 17.
10. With regard to the effect on outlook from the land to the side of No 17, this is a very narrow strip of land that, to my mind, is unlikely to be used for outdoor seating or other domestic activities, particularly as the bulk of the garden is located to the rear of the dwelling, which includes a patio area. I accept that the outlook from the window at the kitchen diner (south west elevation) of No 17 would change with the gable wall of the proposed Type A dwelling being visible from it, however, on the site visit I saw that the kitchen diner is served by windows on two other elevations, with the main outlook from this room towards the rear garden rather than to the side. The gable of the proposed dwelling would not be constructed directly in front of the patio doors of No 17 and would be offset in these views. The comparatively high level of the rear garden of No 17 and the setback from the boundary would ensure that the

proposed Type A dwelling would not appear unduly overbearing from the rear garden of No 17. On the basis of the above reasoning, I am satisfied that the proposal would not lead to an undue sense of enclosure being experienced by the occupants of No 17 and would not adversely affect the outlook of the occupants of that property.

11. In terms of daylight and sunlight, there would be some effect on the kitchen window of No 17 but, as that room is served by windows to two other elevations, this would not be significant. Equally whilst there would be some affect in terms of shading of some of the outside spaces, due to the setback from the boundary and the comparatively high ground level of the rear garden, this would also not be significant.
12. The patio doors serve the living room which is also served by two windows to the front of the dwelling and a glazed door from the front porch. Whilst there is likely to be a loss of some light through the patio doors and a degree of shading at certain times of the day, I am mindful that the proposed dwelling would be offset from the patio doors. Furthermore, taking into account the setback from the boundary and the presence of existing windows on the front elevation of No 17, I am satisfied that any loss of light or shading from the development would not be significantly harmful to the living conditions of the occupants of No 17.
13. I have been made aware of a previous appeal decision at the appeal site for a dormer bungalow, which the appellant advises was in a similar position to the appeal proposal. However, no further detail in relation to this decision has been provided, such as site plans, and I understand that the permission has now expired. Furthermore, I note that the application was made in outline form, with the Inspector advising that the effect on living conditions could be addressed at the detailed stage. I have therefore been able to attribute very little weight to this previous appeal decision.
14. For the above reasons I conclude that the proposal would result in an adverse effect on the living conditions of the occupants of 17 High Seaton, with regard to privacy, in conflict with Criterion 'd' of Policy S32 of the Allerdale Local Plan Part 1 (2014) which, in summary and amongst other things, seeks to provide high standards of design with regard to living conditions.

Other Matters

15. I have had regard to the Planning Committee Report and the recommendation of approval, cited by the appellant. However, I also note that the Council Members have reached a different planning judgement, as they are entitled to. On the evidence before me, I share their concerns with regard to the effect on the privacy of the occupants of No 17.

Conclusion

16. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR