
Appeal Decision

Site visit made on 26 February 2024

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2024

Appeal Ref: APP/F0935/D/23/3332684

41 Fernlea Way, Carlisle CA3 9SJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Colak against the decision of Cumberland Council.
 - The application Ref 23/0013 PDN, dated 11 September 2023, was refused by notice dated 25 October 2023.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class A, A.4 of the Town & Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) for a single storey rear extension at 41 Fernlea Way, Carlisle CA3 9SJ in accordance with the application Ref 23/0013 PDN dated 11 September 2023 and the details submitted with it including the submitted site location plan, block plan and elevations plan pursuant to Article 3(1) and Schedule 2 Part 1, Class A, A.4 and subject to the condition that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

Procedural Matters

2. The description of the proposal in the banner heading above differs from that in the Council decision notice. That included above adequately describes the proposal albeit I acknowledge that the proposal would provide for an extended kitchen and living area.
3. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 1, Class A, Part A.4(7) require the local planning authority to assess the proposed development solely on the basis of its impact on the amenity of any adjoining premises, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The Council assessed the impact of the proposal on the neighbouring property at 39 Fernlea Way. They concluded that due to the intervening distance from the proposal and the party wall boundary that the proposal would not have a material impact on the amenity of that adjoining premises. I have no reason to disagree with that position.

Main Issue

5. The main issue therefore is the impact of the proposal on the amenity of the adjoining premises at No. 43 Fernlea Way (No.43).

Reasons

6. The appeal property sits at the end of a short terrace and is adjoined to No.43 which is the neighbouring property to the north-west.
7. The Council consider that the proposal by reason of its location and massing would result in an unacceptable loss of light to the ground floor kitchen window of the neighbouring property at No.43. The ground floor kitchen window is the window on the ground floor rear elevation of No.43 closest to the boundary with the appeal property.
8. It is not completely clear whether the Council's concerns are in relation to daylight as well as sunlight, although I have worked on the basis that both were a concern.
9. Given the position of No.43 in relation to the appeal property, it is likely that there would be some reduction in sunlight to the room within the rear of No.43 as a result of the proximity of the extension to the window closest to the boundary. This would potentially be more apparent to the occupiers at No.43 at times when the sun was lower in the sky.
10. It is also the case that the extension, by reason of its proximity to the boundary and its height and depth along the boundary could cause some reduction in daylight to the room within the rear of No.43 which enters through that closest window.
11. However, whilst acknowledging the Council position with regard to the 45 degree test, both of these impacts would be limited to some extent due to the single storey nature of the extension and its flat roof design. It is further the case that the room that the ground floor kitchen window serves extends across the rear of No.43 to also be served by a larger window across towards the other side of the property, well away from the boundary with the appeal site.
12. I cannot therefore conclude that the impact of the extension on the window and the daylight and sunlight to that window would result in any unacceptable impact on the amenity of the adjoining premises at No.43.

Conditions

13. The only necessary condition requires that the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

T Burnham

INSPECTOR