



Appeal Decision

Site visit made on 23 July 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 August 2024

Appeal Ref: APP/K0940/D/24/3343433

Old Art Room, Main Street, Bardsea LA12 9QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr D Gorry against the decision of Westmorland and Furness Council.
 - The application Ref is 2023/1187/FPA.
 - The development proposed is addition of glazed balustrade to part of existing flat roof to form balcony to rear of dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue of the appeal is the effect of the proposed development on the living conditions of existing and future occupiers of the host property and those of neighbouring occupiers with particular regard to privacy.

Reasons

3. The appeal site relates to a large semi-detached building that was formally part of Bardsea School. The adjoining property known as School House is located to the north of the property and both properties are set back from Main Street in a slightly elevated position with garden areas located to the rear. The property known as Minna is located further back from the appeal property to the southeast at a higher level than the appeal property.
4. The proposed development seeks planning consent for the addition of a glazed balustrade to an area of flat roof at the rear of the property to create a roof balcony at first floor level. The balcony would be located closer to the boundary of the property to the southeast, Minna and would be open to views from the windows and garden area serving this property which are located at a higher level. Equally, the windows and garden area of Minna would also be seen in views from the proposed balcony. Given the close relationship that exists along with the change in levels would create an uncomfortable relationship in terms of loss of privacy for both properties.
5. The proposed balcony would also allow direct views to be had from an elevated position to the garden area serving the adjoining property to the north, School House. This, coupled with the close relationship that exists between the two properties would result in an undue loss of privacy for the occupiers of School House. I appreciate that discussions may have taken place with neighbours and no objections made although this would not justify the development as a

lack of objection does not mean that development would not be harmful. I am also aware of the appellants' suggestion to have solid board panelling on the attached neighbouring side although this would not sufficiently mitigate against the harm identified particularly when stood up.

6. At my site visit, I observed the level of the existing garden area serving the property in relation to the proposed balcony area. However, I cannot agree that the proposed development would merely terrace the landscape or that the use of the existing garden area is comparable to the use of the proposed balcony area. This is because their overall relationship and perception is different where extended and unrestricted eye height views can be had from anywhere within the balustraded area which would significantly increase both the real and the perception of overlooking. Whilst there are no fences, walls etc to demarcate the separate landholdings meaning that the rear garden to School House is already open to views, it is accepted that to an extent the lack of boundary fencing is a matter for the property owners. The addition of a balcony area would further exacerbate issues of loss of privacy which would be difficult to overcome by fencing/screening given the relationship that exists and elevated position.
7. Whilst matters relating to noise and disturbance did not specifically form a reason for refusal within the decision notice, I acknowledge the Councils' concern in this regard as set out in their Officer's report. The use of a balcony of this size would not however significantly increase levels of noise and disturbance for neighbouring properties over and above that which could take place within the external garden area serving the property or what could reasonably be expected in a residential setting.
8. For the above reasons, I conclude that the proposed development would unacceptably affect the living conditions of existing and future occupiers of the host property and those of neighbouring occupiers with particular regard to privacy. It would therefore be contrary to Policy CS1.1 of the South Lakeland Core Strategy, 2010, Policies DM1 & DM2 of the Development Management Policies Development Plan Document, 2019 and paragraph 135 (f) of the National Planning Policy Framework which together, amongst other matters, ensures the delivery of acceptable levels of amenity and privacy for existing, neighbouring, and future users and occupants.

Conclusion

9. The proposed development would conflict with the development plan when considered as a whole and there are no material considerations which would outweigh this conflict. The appeal should therefore be dismissed.

N Teasdale

INSPECTOR