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## Appeal Decision

Site visit made on 21 May 2025

by **Graham Wraight BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 June 2025

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**Appeal Ref: APP/K0940/W/24/3354478**

**Crossdale, High Biggins, Kirkby Lonsdale LA6 2NP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs S Ross against the decision of Westmorland & Furness Council.
  - The application Ref is 2024/1329/FPA.
  - The development proposed is the conversion of a traditional detached domestic storage building to form a dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the impact of the proposed development on living conditions, both in terms of whether acceptable living conditions would be provided for future occupiers of the proposed dwelling and in terms of the effect on those of the existing occupiers of nearby dwellings.

### Reasons

#### *Future occupiers*

3. There is an existing driveway behind the appeal building which provides access to the rear of four adjacent dwellings at Biggins Hall Barn for maintenance purposes, along with access to a porch on the side of Crossdale. This means that it would not be possible to provide any meaningful private outdoor amenity space for the new dwelling in this area. Space would instead be provided to the front of the building, primarily in a small area next to the building. This area would be enclosed by a new low dry-stone wall.
4. That area would not be private in that people and vehicles passing to Crossdale and Hynning Bank, and also to the access to the adjacent dwellings, would be able to see into the space. Whilst I accept that even private rear gardens are often overlooked to some degree and that some people may enjoy an element of social interaction with neighbours whilst out in their garden, in this instance there would be no privacy afforded whatsoever to future occupiers. Vision into the amenity space would be possible in its entirety and from a close distance.
5. This would be an unsatisfactory arrangement and fail to provide acceptable living conditions for future occupiers of the proposed dwelling. The remaining existing garden area to the front of the property is currently densely planted and at the time of my visit did not appear to be useable amenity space. The plans submitted

suggest that this mature planting would remain and thus that the area would not be available as amenity space. But, in any event, it would suffer from the same issues with regard to a lack of privacy.

6. The Council raised further concerns relating to the proximity of the rear elevation of the proposed dwelling to the gabled side elevation of the garage of Crossdale. However, whilst this would be close to the rear windows of the proposal, the roof pitch and height of the garage along with the presence of a window on the eastern elevation means that adequate outlook and light levels would be provided for the future occupiers of the proposed dwelling.
7. In conclusion, the proposal would fail to accord with Policy DM1 of the Development Management Policies 2019 (DMP), where it seeks to ensure the delivery of acceptable levels of amenity through the provision of adequate private spaces. Policy DM2 is also referred to in the reason for refusal, however this relates more to the matters relating to adequate separation distances between existing and proposed dwellings as opposed to matters relating specifically to the provision of amenity space. The reason for refusal further refers to Policy CS1.1 of the Core Strategy 2010 (CS), however that is a strategic high-level policy which sets out sustainable development principles. It does not refer to matters as detailed as living conditions.

#### *Existing occupiers*

8. Due to the angle of the appeal building in relation to the dwelling at Crossdale, the windows proposed in the rear elevation would face towards the front elevation of the existing dwelling, at a distance of approximately 18 metres. This view would however only be possible from the edge of the windows nearest the driveway and would be partially screened by the proposed fencing and gates. In that context, the separation distance would be acceptable to ensure that there would be no harm to the living conditions of Crossdale, or indeed in terms of the future occupiers of the proposed dwelling.
9. There is one existing window on the appeal building facing toward the dwelling at Hyning Bank, and this is intended to serve as a secondary window to the lounge of the proposed dwelling. However, the window is not significant in size and there is adequate separation between it and the adjacent dwelling so to prevent harmful overlooking. Whilst people using the outdoor amenity area of the proposed dwelling would be able to see into parts of the garden of Hyning Bank, the areas into which vision would be possible are not the most private areas of the garden of that dwelling. There would therefore be no harm in this respect, either.
10. In conclusion, there would be no conflict with Policies DM1 and DM2 of the DMP in respect of their collective aim to provide adequate spatial separation distances between existing and proposed properties.

#### **Other Matters**

11. Policy DM13 of the DMP supports housing development in small villages and hamlets and, locationally, the proposed development has support from that policy. It would also help to meet the aims of Policy CS1.1 of the CS which promotes sustainable development principles, and it would utilise an existing building on land that has already been developed. The appeal site is reasonably close to the services and facilities in Kirkby Lonsdale.

12. My attention has also been drawn to the Strategic Housing and Economic Needs Assessment 2023 which identifies a need for one-bedroom dwellings and promotes bungalows to support downsizing and because of the potential for larger properties to be released. Whilst it has not been evidenced to what degree that the proposal would truly be a low-cost market dwelling, it would undoubtedly be suitable for meeting the needs of smaller households and be an effective use of the building. There would also be benefits arising in that the dwelling would be suitable for people who are less physically able due to its single floor level, and there is potential that it could be easily adaptable to meet the specific needs of future residents. There is support at a broad level for these considerations in Policies CS5, CS6.1, CS6.2 and CS6.6 of the CS.
13. Given the quantum of development, these are matters which collectively carry moderate weight in support of the proposed development.

### **Planning Balance & Conclusion**

14. The proposed development would fail to provide acceptable living conditions for future occupiers of the proposed dwelling in terms of the provision of adequate private amenity space. Although it would not conflict with the aims of the relevant policies relating to the living conditions of existing occupiers and with the strategic policies relating to the new housing development, it would fail to accord with Policy DM1 of the DMP and with the development plan taken as a whole. Balanced against this it would provide the benefits I have outlined which collectively offer moderate weight in its favour. Those benefits do not outweigh the harm that would result and the conflict with the development plan.
15. In conclusion therefore, I find that the other considerations in this case do not indicate that a determination should be made otherwise than in accordance with the development plan. Therefore, the appeal should be dismissed.

*Graham Wraight*

INSPECTOR