



Appeal Decision

Site visit made on 8 July 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 August 2025

Appeal Ref: APP/K0940/D/25/3364682

39 Hallgarth Circle, Kendal, Westland and Furness LA9 5NU

- 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 Michelle Kinley against the decision of Westmorland and Furness Council.
 - The application Ref is 2025/0236/HOU.
 - The development proposed is rear extension and replacement garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has stated that they wish to remove the replacement garage from their proposal. The *Procedural Guide – Planning Appeals – England* advises at paragraph 16.1 that “the appeal process should not be used to evolve a scheme [and] it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage”. As the revised proposal has not been fully considered by the Council or subject to consultation, having regard to the advice in the Procedural Guide as well as the judgment in *Holborn Studios Ltd*¹ (which refined the well-known “Wheatcroft Principle”²), I have not taken the revised development into account in my decision, as to do so may prejudice other parties.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of the occupants of neighbouring properties with regard to light and outlook;
 - whether the proposal demonstrates a net gain in biodiversity.

Reasons

Character and appearance

4. The appeal site is located in a residential area where the majority of dwellings are two storey and semi-detached with hipped roofs. Most of the dwellings on Hallgarth Circle are unaltered and any extensions are modest in relation to the scale of

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

² *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

- existing buildings. This results in a consistent rhythm of development which contributes positively to the character and appearance of the area.
5. The proposed extension would project several metres out from the rear elevation of the host property. The extent of this projection, coupled with its height and width would result in a disproportionate addition that would dominate the original built form of 39 Hallgarth Circle. Further, the proposed replacement garage would have a pitched roof which would be higher than the existing garage and, due to underbuilding, would be larger than a typical ancillary building in the area.
 6. A neighbouring dwelling has an existing two storey extension and as detailed above other properties in the area have been extended. Still, based on the evidence before me these extensions are not of the same scale as the appeal scheme. As such, the proposed extension and garage would appear overly large and incongruous within the established street scene.
 7. For the reasons detailed above the proposal would have a harmful effect on the character and appearance of the area. Therefore, the development conflicts with Policy CS8.10 of the South Lakeland Local Development Framework, Core Strategy 2010 (CS) and Policies DM1 and DM2 Local Plan Development Management Policies 2019 (DMP) which requires that all development maintains or enhances the character of the townscape and responds appropriately to the site's locational context.

Living conditions

8. The Council state that the closest windows and glazed doors of 37 Hallgarth Circle (No 37). serve a dining room and first floor bedroom, from my observations on site I have no reason to disagree with the Council in this regard. The proposed extension would project significantly beyond the closest windows of No 37.
9. Given the scale of the extension, and with no substantive evidence before me to demonstrate otherwise, it would restrict light and overshadow habitable rooms of No 37 harming the living conditions of the occupants of this property.
10. Further, due to the slope of the appeal site and the extent of underbuilding required, the proposed replacement garage would be significantly higher than a typical building of this type. The scale and massing of both the extension and garage combined would result in a sense of enclosure for occupants of both No 37 and the neighbouring properties on either side. The high proportion of development in comparison to open space with the rear garden and the proximity of the development would also harm the outlook of neighbouring occupants.
11. The Council's concerns regarding loss of light are centred on the living conditions of the occupants of No 37. The appellant asserts that the part of the extension that may affect natural light does not serve habitable rooms. However, there is no substantive evidence before me to demonstrate that this is the case.
12. For the reasons detailed above the proposed development would harm the living conditions of the occupants of neighbouring properties Hallgarth Circle with regard to light and outlook. Therefore, it conflicts with Policy DM1 of the DMP which seeks to ensure the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future occupants through provision of adequate spatial separation distances and retention of adequate landscaping.

Biodiversity

13. Policy DM4 of the DMP, amongst other things, requires new development to minimise impacts on biodiversity and provide net gains where possible, these gains should be quantitative and should be clearly demonstrated as a net gain as a result of development. The National Planning Policy Framework (the Framework) also identifies that development should secure measurable net gains for biodiversity.
14. The proposal would take up a large portion of the rear garden. In their appeal statement the appellant stated that a significant portion of the rear garden is hard surfaced and that they intend to plant shrubs and flowers and possibly a lawn. The submitted plans do not indicate additional planting, and this leads me to consider that there is insufficient evidence to clearly determine whether the proposal would provide a biodiversity net gain. I note that Policy DM4 refers to providing a biodiversity net gain 'unless it can be demonstrated that it is not possible', however there is no compelling evidence before me to suggest that a biodiversity net gain cannot be achieved.
15. There is insufficient evidence to demonstrate that the proposal provides a biodiversity net gain, nor is there substantial information detailing that a biodiversity net gain at the site is not possible. The proposal therefore conflicts with Policy DM4 of the DMP.

Other Matters

16. A lack of objections from the current occupants of neighbouring properties are not considered to outweigh the harm caused by the development.
17. The appellant has indicated that the occupants of a neighbouring dwelling intend to build a similar extension in the future. However, details of planning permission for this extension have not been provided and there is no substantive evidence to indicate that there is a significant probability that a similar extension on the neighbouring property would be constructed.

Conclusion

18. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR