
Appeal Decision

Site visit made on 27 May 2025

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

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2025

Appeal Ref: APP/F0935/W/25/3360201 10/11 South Parade, Seascale CA20 1PZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Mawson against the decision of Cumberland Council.
 - The application Ref is 4/24/2205/0B1.
 - The application sought planning permission for change of use of existing shop to a mixed use including retail, café, bakery, and soft play (use class e); and external improvements to building including installation of cladding, new doors and porch & reinstatement/alterations to existing doors and windows varying and without complying with conditions attached to planning permission Ref 4/23/2174/0F1, dated 23 May 2024.
 - The conditions in dispute are Nos 2 and 3 which state that:
 2. This permission relates to the following plans and documents as received on the respective dates and development must be carried out in accordance with them:-
 - Existing/Proposed Location Plan & Proposed Block Plan, Scale 1250 & 1:500, received by the Local Planning Authority on the 20th June 2023.
 - As Existing Drawings (Amended), Scale 1:100, Dwg No: 01, Rev: D, received by the Local Planning Authority on the 6th March 2024.
 - As Proposed Plans/Elevations (Amended), Scale 1:50 & 1:100, Dwg No: 10, Rev: C, received by the Local Planning Authority on the 16th May 2024.
 - Flood Risk Assessment, Prepared June 2023, received by the Local Planning Authority on the 20th June 2023.
 - Refurbishment Survey, Prepared by West Coast Surveys April 2023, received by the Local Planning Authority on the 12th February 2024.
 - Planning Summary, received by the Local Planning Authority on the 5th March 2024.
 - Kitchen Extract Details: EuroSeries (Amended), received by the Local Planning Authority on the 20th March 2024.
 - Email from Agent – Fan Extract Details, received by the Local Planning Authority on the 3rd April 2024.
 - As Proposed Kitchen Extract (Amended), Scale 1:100, Dwg No: 07, Rev: B, received by the Local Planning Authority on the 17th April 2024.
 - Cladding Details: Coastline Composite Cladding, received by the Local Planning Authority on the 3rd April 2024.
 - Client/Architect Response to Environmental Health, received by the Local Planning Authority on the 17th April 2024.
 3. Prior to the first use of the property hereby approved the existing opening within the front elevation directly adjacent to 8 South Parade, must be reinstated from a door to a window opening in accordance with the following approved plan:
 - As Proposed Plans/Elevations (Amended), Scale 1:50 & 1:100, Dwg No: 10, Rev: C, received by the Local Planning Authority on the 16th May 2024.
- The approved opening must be retained as a window for the lifetime of the development

- The reasons given for the conditions are:
 2. To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
 3. To minimise potential disturbance to nearby residences and to safeguard the amenities of the locality in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has confirmed that the policies from the Copeland Local Plan 2013-2028 and the saved policies of the Copeland Local Plan 2013-2016 referred to in the Decision Notice have been superseded by policies from the Copeland Local Plan 2021-2039 (LP). Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. In the case of this appeal, the Council has suggested that Policy DS4 of the LP is now the policy most important to the determination of the appeal. The appellants have had the opportunity to comment upon its relevance to the appeal.

Background and Main Issue

3. In 2024 planning permission was granted, subject to a number of conditions, for the change of use of the shop to a mixed use unit which includes retail, café, bakery and soft play. The planning permission included condition 2 which specified the approved plans and condition 3 which required a door serving the unit to be reinstated to a window. The proposal seeks the variation of condition 2 to allow the amendment of the approved plans and the removal of condition 3 in order to allow for the retention of the door to provide an additional customer entrance/exit rather than a window as approved.
4. The main issue is the effect of the amendment on the living conditions of the occupants of 8 South Parade, with regard to privacy, noise and disturbance.

Reasons

5. The appeal site is located in the coastal village of Seascale on South Parade, which fronts on to the B5344, which is a main vehicular route through the settlement. The immediate area comprises a mix of residential and commercial uses and a public car park is located directly across the highway from the appeal building. The host building combines 10 and 11 South Parade and neighbouring property 8 South Parade (No 8) adjoins the appeal building and has a bay window on the ground floor and a small front garden that is bound by low timber fencing and a brick wall.
6. The door to which the appeal relates is positioned on a small extension that projects slightly from the front elevation of the building. The door provides customers access to the bakery part of the business and is very close the boundary with No 8 and its ground floor bay window. At busy times there is potential for several customers to be waiting or passing close to the front ground floor window of No 8 which serves a habitable room.
7. In busy periods individuals waiting to be served at the bakery may need to wait outside leading to them remaining close to and overlooking the windows at No 8 for

prolonged periods. This results in a notable increase in the potential for overlooking resulting in harm to the privacy of the occupants of No 8. The identified harm is not lessened by the limited objections in relation to the proposal.

8. It is acknowledged that the appeal site is located in a busy area and people passing No 8 on the public path, travelling along the B5344 or utilising the car park, could overlook the ground floor window of. However, the depth of the front garden creates a sufficient separation distance to mitigate the resultant privacy impact from these individuals. There is also a post box and bin outside of the appeal building close to No 8 which would give members of the public a reason to come close to this property; but people using a public bin or post box would be unlikely to remain in the area for a prolonged period of time.
9. In terms of noise and disturbance, customers queueing or congregating outside of the unit may engage in conversation close to No 8 and there may be noise as a result of the door opening and closing. However, bearing in mind the nature of the immediate area detailed above, it is not clear that the resultant noise levels would be significantly greater than existing, sufficient to have a material impact on the living conditions of No 8 in terms of noise and disturbance.
10. A historical photo of the buildings on South Parade was submitted in support of the appeal, but it does not appear to show a door in the position of the existing door. As such, it is not clear that the past arrangement was the same as the scheme before me.
11. For the reasons detailed above the amendments would harm the living conditions of the occupants of 8 South Parade, with regard to privacy. Therefore, the development is contrary to DS4 of the LP which requires that developments must maintain high levels of amenity.

Other Matters

12. The appellant has highlighted the popularity of the business and the use of the building by both locals and those visiting the area for work and pleasure. This is also demonstrated by a large number of representations supporting the proposal. The utilisation of an additional access door may improve customer access. Notwithstanding this, based on the evidence before me it is not clear that the amendment is essential for the continued successful operation of the business. Considering this, I give only limited weight in favour of the development in this regard.
13. I have found that the amended proposal would not have a materially harmful effect on the living conditions of the occupants of No 8 in regard to noise and disturbance. However, the adverse impact in terms of their privacy is decisive.
14. The benefits of the amended scheme would not outweigh the harm I have identified, and the proposed development would conflict with the development plan as a whole. There are no material considerations to indicate a decision otherwise than in accordance with the development plan.

Conclusion

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

C Livingstone INSPECTOR