 Appeal Decision

Site visit made on 12 October 2009

by Victor Crumley DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Appeal Ref: APP/Q9495/A/09/2107348
Holme Fell, Brantfell Road, Bowness-on-Windermere, Windermere LA23 3AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Robert Elliott against the decision of Lake District National Park.
- The application Ref 7/2008/5531, dated 16 September 2008, was refused by notice dated 19 December 2008.
- The development proposed is extension to balcony.

Decision

1. I allow the appeal, and grant planning permission for extension to balcony at Holme Fell, Brantfell Road, Bowness-on-Windermere, in accordance with the terms of the application, Ref 7/2008/5531, dated 16 September 2008, and the plans submitted with it, subject to the condition that the development hereby permitted shall begin not later than three years from the date of this decision.

Main issue

2. I consider the main issue in this appeal to be the effect of the proposal on the living conditions of the occupiers of the neighbouring property known as 'Holme Ground', with particular reference to loss of privacy.

Reasons

3. Holme Fell is a large 2-storey dwelling, with additional accommodation in the roof space, prominently set high on a steeply sloping site above Brantfell Road. It has an existing balcony on the west side, at the upper ground floor level, measuring about 3.5m long by 2m wide. Adjacent to the balcony to the south is a conservatory, the same width as the balcony. Immediately to the north of Holme Fell, just 6m distant at the closest point but at a significantly lower level, lies the property known as 'Holme Ground'. This house has a ground floor patio window in the south west corner which can be seen from the balcony of Holme Fell.

4. It is proposed to widen the balcony by 1.3m, connecting it to a staircase to be erected outside the conservatory to gain access to the steeply sloping and inaccessible rear garden. The balcony would also be lengthened by 2m along the rear elevation of the property, towards Holme Ground. From the balcony there is a natural tendency to look immediately towards the fine views of Lake Windermere, which are well to the side of the adjacent house and far above the level of its patio window. I consider that at present, the difference in level between the properties and the steep angle of view between the balcony and
the patio window prevents any material invasion of privacy. Although the extended balcony would be 2m closer to Holme Ground, the angle of view from the northern end would become even steeper, and I do not believe that there would be any material increase in overlooking.

5. While the NPA considers that the larger balcony proposed would increase its use and therefore its potential for overlooking, the existing balcony is large enough for a number of people to sit out, and does not appear to me to be restricted in use by its small size. In my view the use of the extended facility proposed, and its relationship to the adjacent property, would be little different to that existing. I conclude that it would not harm the living conditions of the occupiers of Holme ground.

Victor Crumley

INSPECTOR
Appeal Decision

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Decision date: 27 October 2009

Appeal Ref: APP/Q9495/A/09/2106438/
Verge adjacent to St Anne’s School, Patterdale Road, Windermere, Cumbria

- 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 Orange PCS Ltd against the decision of Lake District National Park Authority.
- The application Ref 7/2008/5674, dated 15 December 2008, was refused by notice dated 6 April 2009.
- The development proposed is erection of 12m high telegraph-type antenna support pole with 1 antenna and 1 telecommunications dish, equipment cabinet and meter cabinet.

Decision

1. I dismiss the appeal.

Main issue

2. I consider the main issue in this appeal to be the effect of the proposal on the character and appearance of the street scene and the surrounding area.

Reasons

3. The monopole and cabinets proposed would be situated between trees in the verge on the west side of Patterdale Road A 592, opposite St Anne’s School on the edge of the town of Windermere. A number of houses and school buildings lie nearby to the south and east. The pole would be finished to have the appearance of a timber telegraph pole. It would be 12m high, including the antenna mounted at the top, and would carry a small dish antenna. One large cabinet, measuring about 1.5m high by 1.3m wide, and one small cabinet would stand alongside it. The facility would replace and upgrade an existing one at the Elleray School, the preparatory department of St Anne’s; that mast is to be removed at the insistence of the site owners. The appellant has provided maps showing coverage of the target area with and without the proposal, and it is clear that the necessary service can be achieved from here.

Character and appearance

4. The site lies within a particularly attractive area, where Patterdale Road leaves Windermere and becomes a narrow, scenic rural road. The new equipment would be close to a field gate at the side of the lane from which outstanding views of the surrounding countryside and the distant fells can be enjoyed. Beyond the gate the road-side verge is planted with semi-mature trees which extend for some distance to the north. The pole and cabinets would be
situated between the first two trees along this length; these trees are shown on the plans to be 10m and 12m high respectively, and are about 10m apart.

5. While the wooded verge would restrict views of the mast along the lane from the north, I consider that the two trees immediately adjacent to the mast would do little to prevent a severe adverse effect on the appearance of the lane viewed from the south, and on the particular character of the area immediately surrounding the site itself, with its unique outlook. This location is passed regularly by users of the road which links Windermere to Troutbeck and Kirkstone Pass, is a popular stop for visitors enjoying the view, and is close to a number of dwellings and to residential buildings within the school across the road. Notwithstanding the intention to disguise the mast as a conventional telegraph pole, I consider that the equipment would have a stark industrial impact on a particularly attractive and well used location within the National Park, and would harm the character of the area.

6. The appellant has given details of a number of other sites that it has examined, and the reasons why it has found these to be unsatisfactory. A further site, adjacent to the lay-by a short distance to the north of the appeal site, was suggested as a better alternative by St Anne’s School, but the appellant has advised the National Park Authority (NPA) that because of the lie of the land and tree cover, a mast here would not provide the necessary service. Other locations suggested by the school have been rejected as unsuitable. However, I note that the school has indicated that it owns other land, and that residents consider other potential sites to be available. While they are not in a position to assess the technical suitability of such locations, I consider that an exhaustive examination of potential alternative sites and approaches to providing the necessary service is required if the development of more sensitive locations is to be avoided. I am not convinced that such an examination has yet been completed.

7. Government guidance on planning decisions on mobile phone base stations is set out in 'Planning Policy Statement 8: Telecommunications' (PPG 8). Its general policy includes the need to facilitate the growth of new telecommunications systems while keeping the environmental impact to a minimum. It also places great emphasis on its well established national policies for the protection of the countryside- in particular the National Parks and other designated areas. This guidance is reflected in the relevant policies of the development plan. I therefore conclude that the proposal would harm the character and appearance of the street scene and the immediate surrounding area, and would contravene Policy T33 of the Cumbria and Lake District Joint Structure Plan and Policies UT7 and NE1 of the Lake District National Park Local Plan.

Health concerns

8. I have taken into account the views of those residents, and the management of St Anne’s School, who have raised concerns about the effect of the proposal on health, and about the perception of health hazards and its potential effect on the viability of the school. I acknowledge that concerns over matters affecting public health, and the perception of such hazards, are capable of being a material consideration in planning decisions, and they are relevant to my decision.
9. Government guidance in PPG 8 indicates that the Government accepts the precautionary approach advised by the report of the Independent Expert Group on Mobile Phones (the Stewart Report). Its acceptance of the precautionary approach referred to there is limited to the specific recommendations in the report and the Government’s response to them. These include the need for the emissions from mobile phone base stations to meet the guidelines for public exposure set out by the International Commission on Non-Ionising Radiation Protection (ICNIRP). The appeal proposal includes an appropriate certificate confirming that it meets these guidelines; the appellant company advises that the greatest power level from the installation would fall at a point 100m from the column, where it would be 0.16% of the ICNIRP recommended maximum radio frequency public exposure levels.

10. PPG 8 advises that if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure to radio waves it should not be necessary for a planning authority to consider further the health aspects of the proposal. In the light of this advice, and bearing in mind that there was little objective evidence to support local fears and that the emissions from the mast would be well within the ICNIRP guidelines, I do not consider that local residents’ health concerns are sufficient to justify refusing planning permission. This does not, however, outweigh my main concern about the effect of the proposal on the character and appearance of the area.

Victor Crumley
INSPECTOR