

Appeal Decision

Site visit made on 13 September 2016

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 28 October 2016

Appeal Ref: APP/Q9495/C/16/3145030

Land at Greta Gardens, Crow Park Road, Keswick, Cumbria CA12 5EQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Your Housing Group against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice was issued on 27 January 2016.
 - The breach of planning control as alleged in the notice is the installation of 18 lighting columns, in the approximate positions marked with a black dot on the attached plan.
 - The requirements of the notice are permanently remove the 18 lighting columns from the land.
 - The period for compliance with the requirements is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Reasons

The ground (a) appeal

2. The main issue is the effect of the light from the lighting columns on residential amenity, the character of the area and ecological interests.
 3. Greta Gardens is a recently constructed multi-storey development of flats between Crow Park Road and The Headlands. Between the development and The Headlands are a parking area and an amenity area for residents, and to the south of the development is a service access road. Ten of the lighting columns that are the subjects of the enforcement notice are within the parking area, four are within the amenity area and four light the service road. The columns are four metres in height and are surmounted by a single light in an inverted cone shaped lantern.
 4. The development is set down from The Headlands by about 2.5 metres, there is a retaining structure along the road frontage, and on the opposite side of the road are mainly semi-detached two storey dwellings. To the south of the development is an amenity area that includes a wooded area of mature trees. Many of the light fittings have been fitted with shrouds to limit the spread of light; such as those in the parking and amenity areas where shrouds prevent light being cast directly towards the dwellings on the opposite side of The Headlands.
 5. However, light being cast in other directions, such as towards the rendered frontage of the building, reflects off surfaces towards the dwellings. Notwithstanding the technical information submitted in support of the appeal and
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given the number of light fittings and their height relative to ground floor windows in the dwellings, it is likely that this indirect light is visually intrusive for residents of the dwellings on The Headlands. Though not conclusive in itself, evidence of residents of The Headlands indicates that light pollution is a distinct problem. The lighting columns at Greta Gardens, given their height and number and the indirect light cast, are detrimental to the amenities of residents of The Headlands.

6. For the same reasons the light that is cast from the lighting columns over the roadway and residential properties on The Headlands, given the height and number of the lighting columns, is likely to cause unnecessary light pollution that is detrimental to the character of the area. Evidence on ecological interests, specifically the effect of the light cast by lights on the columns on bats that roost in the area, is inconclusive. But this factor does not alter the overall conclusion, given the harm that is caused by the light from the 18 lighting columns on residential amenity and on the character of the area, that the development that is the subject of the enforcement notice conflicts with policies CS11 and CS25 of the Lake District National Park Core Strategy. The height of the columns is crucial and a planning condition could not be imposed to address both this factor and the design of the light fittings themselves.

7. In these circumstances the ground (a) appeal must fail and planning permission must be withheld for the installation of 18 lighting columns at Greta Gardens, Crow Park Road, Keswick.

The ground (f) appeal

8. It is the height of the lighting columns that is crucial, rather than the type of light fittings, in this case. Neither the height of the columns nor the type of light fittings is a matter that justifies a conclusion that the requirements of the notice are excessive. The removal of the lighting columns is the minimum requirement of the notice and the ground (f) appeal thus fails.

The ground (g) appeal

9. The removal of the lighting columns and the installation of temporary light fittings to satisfy health and safety requirements could be achieved within the compliance period of four months. It would be inappropriate therefore to extend the compliance period to provide time for the submission of a planning application for permanent replacement fittings. The ground (g) appeal thus fails.

John Braithwaite

Inspector