The Planning Inspectorate

# Appeal Decision

Site visit made on 9 May 2017

**by Thomas Hatfield BA (Hons) MA MRTPI**

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

**Decision date: 9th June 2017**

**Appeal Ref: APP/W0910/W/16/3164765**
**5 St. Michaels Road, Barrow-in-Furness, LA13 0QD**

- 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 Mr Ian White against the decision of Barrow-In-Furness Borough Council.
- The application Ref B13/2016/0461, dated 15 June 2016, was refused by notice dated 14 September 2016.
- The development proposed is a single storey, timber framed dwelling with attached garage in rear garden including demolition of outbuildings and altered vehicular entrance.

## Decision

1. The appeal is allowed and planning permission is granted for a single storey, timber framed dwelling with attached garage in rear garden including demolition of outbuildings and altered vehicular entrance at 5 St. Michaels Road, Barrow-in-Furness, LA13 0QD in accordance with the terms of the application, Ref B13/2016/0461, dated 15 June 2016, and the plans submitted with it, subject to the conditions set out in the attached schedule.

## Main Issues

2. The main issues are, firstly, the effect of the development on the living conditions of neighbouring occupiers, and future occupiers of the development, with regard to loss of outlook and, secondly, whether the development would be served by a safe and suitable access.

## Reasons

*Living conditions*

3. The appeal site comprises part of the rear garden to No 5 St. Michaels Road. It is surrounded by the rear gardens to the adjoining properties, which are mostly generous in size.

4. The proposed dwelling would be located close to the boundary with No 7 St Michael's Road. Its eaves would be taller than the existing boundary fence, although its roof profile would slope away from the boundary. The height of the dwelling would be relatively low and it would also be positioned towards the end of the garden to No 7, which is generous in length. These factors would limit the development's impact on the garden area to No 7 and it would not be excessively overbearing in my view. Whilst there would be some limited views over the rear of No 7 from the proposed roof lights, these would not be direct

given the angle of the roof slope. Accordingly, there would not be an unacceptable loss of privacy.

5. The proposed dwelling would also be relatively close to the boundaries with Nos 5 and 7 Rampside Road. However, it would be positioned at the far end of the back gardens to those properties, which are generous in length. There is also an existing tall boundary wall along this boundary. Accordingly, I do not consider that the development would be unduly overbearing to the garden areas of these properties.

6. The existing garden to No 5 is large and could accommodate an additional dwelling without resulting in an unduly cramped built form. Whilst there would be some loss of open aspect to the surrounding area, given the height of the property and the size of the surrounding gardens, this would not be unacceptably harmful in my view. Whilst, I note the findings of my colleague in relation to appeal ref APP/W0910/A/11/2149868, the full details of that case are not before me. In any case, I have come to my own view on this matter based on the particular characteristics of the appeal site.

7. The proposed dwelling would also be positioned to the rear of the properties that back onto Concle Terrace. Whilst the Council accept that the dwelling would not lead to any significant loss of privacy or outlook, it is concerned about the creation of a sense of enclosure at the rear. However, a significant gap would remain between the proposed dwelling and the rear of these properties that would include the proposed garden area. Given the distance involved, and the relatively low height of the dwelling, I do not consider that the development would result in a harmful sense of enclosure.

8. Separately, the additional traffic associated with the dwelling would be limited and it would not lead to a significant increase in noise and disturbance to properties adjacent to Concle Terrace.

9. Turning to the living conditions of the future occupiers of the dwelling, I note that the proposed windows on the north western elevation would be close to the existing boundary fence. These windows would serve a kitchen / dining and sitting area, and a bedroom. In addition to these windows, the kitchen / dining and sitting area would also be served by glazed bi-folding doors on the south western elevation. Accordingly, even if an outbuilding were constructed on the other side of the boundary, the kitchen / dining and sitting areas would still have an acceptable outlook and levels of natural light.

10. The windows on the south eastern elevation of the dwelling would be set further back from the boundaries with Nos 5 and 7 Rampside Road, and would serve a lounge and a bedroom. These would face an existing boundary wall that is relatively high. The introduction of an outbuilding immediately on the other side of this boundary under permitted development rights would not be significantly taller than the existing wall. In any case, there is no evidence before me of an intention to construct an outbuilding in any adjacent garden.

11. My attention has been drawn to an appeal decision that also considered the potential impact of neighbouring properties exercising their permitted development rights (ref W0910/A/92/213368). The full details of that case, including details of the site in question, are not before me. However, I note that that decision was issued in January 1993 and it is therefore dated. In any case, I have come to my own view on the appeal proposal, rather than relying on the view another Inspector came to elsewhere.

12. For the above reasons, I conclude that the development would not significantly harm the living conditions of neighbouring occupiers, and future occupiers of the development, with regard to loss of outlook. It would therefore accord with saved Policies B3 and B7 of the Barrow-in-Furness Local Plan Review (2006). These policies seek to ensure, amongst other things, that the siting, scale, and layout of new development is sensitive to the local context and does not unduly harm the amenity of neighbouring occupiers.

13. In coming to that view, I have had regard to Policies H4, H7, H8, DS1, DS2, and DS3 of the emerging Barrow Borough Local Plan. However, the emerging Local Plan is at a relatively early stage of preparation and has not yet been submitted to the Secretary of State for examination. There is also no information before me regarding the extent of any unresolved objections. In these circumstances, I attach limited weight to these policies.

*Safe and suitable access*

14. The proposed dwelling would be accessed via Concle Terrace, which is an unadopted road leading onto Rampside Road. It is currently used by the properties that back onto Concle Terrace for access and parking. Whilst narrow, it is surfaced to a good standard along its length.

15. A new dwelling would introduce some limited additional traffic onto Concle Terrace. However, this would not significantly increase the use of this access or the number of conflicts that would arise. The creation of an additional passing place at the entrance to the development would also help to reduce such conflicts and would provide additional manoeuvring space. This would also increase the ability of vehicles to turn at the end of Concle Terrace, which would improve the existing situation.

16. Whilst refuse bins may need to be emptied on Rampside Road, and delivery vehicles may need to park for an extended period of time, Rampside Road is sufficiently wide to safely accommodate this. Whilst the occasional delivery of bulky items may be complicated by the proposed access arrangement, that alone does not justify the dismissal of the appeal.

17. I note that interested parties have expressed concern regarding the use of Concle Terrace by delivery vehicles, and the damage that has been caused to an adjoining boundary wall in the past. However, the proposed dwelling would not significantly increase the use of this access, and the provision of additional manoeuvring space would improve the ability of vehicles to turn at the end of Concle Terrace.

18. For the above reasons, I conclude that the development would be served by a safe and suitable access. It would therefore be in accordance with saved Policies B3 and B7 of the Barrow-in-Furness Local Plan Review (2006). These policies seek to ensure, amongst other things, that new development is served by appropriate access and parking facilities.

**Other Matters**

19. The appellant submitted revised plans with the appeal documentation. These show a different design that would incorporate a lower roof profile and a raised eaves height. However, I have concerns about the design of the revised scheme. Moreover, I have found that the original scheme would not significantly harm the living conditions of neighbouring properties. Accordingly,

I have based my decision on the original drawings submitted with the application.

20. The width and length of the existing garden to No 5 St. Michaels Road, and its relationship to Concle Terrace, is different to the surrounding gardens. Accordingly, I do not consider that the appeal scheme would necessarily create a precedent for further development in the surrounding area.

21. There is no substantive evidence before me that the site cannot be adequately drained or connected to the foul sewer network. In this regard the appellant has indicated where a foul drainage connection could be made, and I note that United Utilities has not objected to the development. Adequate surface water drainage is capable of being secured by condition.

22. There is no substantive evidence before me of any legal impediment that would prevent the development from taking access from Concle Terrace. In this regard I note that No 5 St Michael's Road already has a secondary access onto Concle Terrace.

23. The effect of the development on the ability to sell nearby properties has also been raised. However, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

24. Any effects from the construction period would be temporary in nature.

**Conditions**

25. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary for clarity and to ensure a satisfactory development. I have also imposed a condition regarding surface water that is necessary in order to ensure that site is adequately drained. This is a pre-commencement condition as any development works could affect the drainage of the site. A condition requiring that the windows in the north east elevation of the dwelling be obscurely glazed is also necessary to protect the privacy of No 5 St Michael's Road.

26. I have imposed 2 conditions that remove permitted development rights to create additional openings and dormers in the property. These are necessary in order to protect the privacy of adjacent occupiers. A further condition requiring that the vehicular access and parking area is retained is necessary to restrict further parking along Concle Terrace.

27. The Council suggested a further condition that would require the submission and approval of a landscaping scheme. However, this is unnecessary for a scheme of this type and size, in a relatively secluded location.

**Conclusion**

28. For the reasons given above I conclude that the appeal should be allowed.

*Thomas Hatfield*

INSPECTOR

## Schedule of conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16089_PL01_01 (dated 15/06/16); 16089_PL01_02 (dated 14/05/2016); 16089_PL01_03 (dated 14/06/2016); 16089_PL01_04 (dated 14/06/2016); 16089_PL01_05 (dated 14/06/2016); 16089_PL01_06 (dated 14/06/2016); 16089_PL01_07 (dated 14/06/2016); 16089_PL01_08 (dated 14/06/2016); 16089_PL01_09 (dated 21/07/2016).

3) No development shall take place until details of a proposed surface water disposal scheme, including provision for the proposed driveway with measures to prevent surface water discharging onto the highway, have been submitted to and approved in writing by the Local Planning Authority. The design shall first consider the feasibility of a soakaway system, including the carrying out of a percolation test with the findings to be submitted. If this is found to be impracticable only then shall connection to the combined sewer be made.

4) The windows in the north east elevation of the dwelling shall not be glazed otherwise than with obscured glass and top hung and thereafter be permanently retained as such.

5) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modifications) no additional openings of any kind shall be made in the south west or north east facing side elevations of the permitted dwelling.

6) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modifications) no dormer extensions or enlargements of the roof lights shown on the approved drawing shall be carried out without the prior written express approval of the Planning Authority.

7) The vehicular access, driveway, and parking area to the property must be reserved for the parking of private motor vehicles and no permanent development, whether permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modifications) or not, shall be carried out on that land in such position as to preclude vehicular access to the development hereby permitted.