
Appeal Decision

Site visit made on 8 September 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2020

Appeal Ref: APP/M0933/W/20/3254708

Seattle, Sandside, Kirkby-in-Furness LA17 7TA

- 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 and Mrs Peter Armistead against the decision of South Lakeland District Council.
 - The application Ref SL/2019/0920, dated 14 November 2019, was refused by notice dated 16 January 2020.
 - The development proposed is demolition of an existing property and construction of a new detached dwelling.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of an existing property and construction of a new detached dwelling at Seattle, Sandside, Kirkby-in-Furness LA17 7TA, in accordance with the terms of the application Ref SL/2019/0920, dated 14 November 2019, subject to the following 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: MVC277-01 Rev H, Ambiantal Flood Risk Assessment (4515), Envirotech bat report and Treescapes Consultancy report dated 8 August 2019.
 3. The proposed window serving bedroom 4 as shown on the approved plans shall be constructed in obscure glass and shall be retained thereafter.

Main Issue

2. The main issue is the effect of the appeal proposal on the character and appearance of the area, with particular regard to design, size and siting.

Reasons

Character and Appearance

3. The appeal site is located on the edge of Kirkby-in-Furness, within an extensive countryside and seascape context. Being on lower ground, with an open aspect towards the railway line and sea beyond, it has a less intimate character than other parts of the settlement. The locality is characterised by varied house types, both detached and terraced of different designs, sizes and ages. These

are situated at the same level as the appeal site and on rising ground behind. There is some consistency between buildings in terms of the prevalence of gable roof forms, vertical proportioned openings and rendered walls.

4. The demolition of the individually designed existing dwelling is not in contention between main parties. From the evidence before me and the findings of my site visit, I have no cause to disagree with that assessment.
5. The Council has raised concerns about specific design features. The appeal proposal would not replicate that of other properties in the locality. However, the proposed design would be relatively simple and subtly nod to positive attributes of its predecessor. This includes the proposed mix of external materials, the number of storeys, orientation and double fronted nature of the principal elevation. Furthermore, its roof design would reference the gable ends and small dormer window features of the existing property. Each of these features is not alien to the locality.
6. I agree with the design rationale articulated by the appellant in respect to the glazed gable feature. Furthermore, although I did observe that external chimney breasts were not a common feature within the locality, one of those proposed would be largely obscured from view by the neighbouring terrace. Although the other would be evident in its entirety from the approach into the settlement, it would be read as part of the contemporary glazed gable feature and would be softened by planting. That would lessen its visual impact to a degree that would not be incongruous.
7. Overall, I find that the appeal proposal would continue the unique appearance which is characteristic of the plot and this part of the settlement, albeit through a more contemporary design approach. This would not undermine the existing character of the area that I have identified.
8. In terms of the dispute over size, the appeal proposal would provide a greater level of floorspace than that of the existing modest dormer bungalow. This and the 'T-shaped' footprint would not in themselves be unusual to the locality. Parties disagree over whether the appeal proposal has credentials which would resemble farm houses in the area. Regardless, I do find the increased width and depth proposed would be in proportion with the increased height. The dwelling mass would be sufficiently broken up into two distinct forms that would not be excessive in relation to the plot, nor jar with its context.
9. Although there would be an increase in ground floor level, eaves and finished ridge heights, these would not be at odds with the existing 1½ storey character of the existing dwelling. Neither would they be discordant with the surrounding dwellings, given their respective scales or elevated positions.
10. Furthermore, the use of varied building lines, projections, ridge heights, external wall finishes, and glazing would successfully break up the expanse of the proposed dwelling, including the exposed side elevation, in a manner which would add visual interest. It would also be of a scale and mass that would be compatible with both the plot and its context, regardless of the loss of some existing mature trees and hedgerow.
11. The appellant has demonstrated that a generous level of garden area and on-site parking provision would be retained to both the front and rear of the dwelling. In doing so the spacious character of the plot would not be lost.

12. In terms of the dispute over siting, the Council has not contended the principle of a replacement dwelling within the plot. It is the proposed positioning relative to the front and side boundaries and edge of settlement location which has given rise to objection.
13. The positioning of the existing dwelling within the plot differs to others in the vicinity as it is set well back from the road, within generous gardens. Although the proposed front elevation would be set further forward, it would nevertheless be consistent with that of the adjacent terrace. Its presence within the street scene would be greater than the existing dwelling. However, the appeal proposal would not be obtrusive. This is due to the credentials of the proposed design and because it would be read within a generous plot, against the remaining mature trees and new planting on its most exposed boundaries.
14. The appeal site presents itself as part of built up form of Kirkby-in -Furness. Being situated on the edge of the village, the content of this plot would remain visible from a distance along a main approach to the settlement, in the context of a number of neighbouring elevated dwellings. Indeed, it would pose a different vista to that of the existing property upon approach from either direction. However, the actual degree of visibility and transition of the plot would remain intact. Moreover, I have found no harm in respect to the change in design and scale which would arise. Furthermore, I concur with the clear design articulation provided by the appellants on that matter.
15. Neither parties opposing views about the credentials of other developments in the settlement or available permitted development rights in connection with the existing dwelling alter my findings in the absence of any harm arising from the appeal proposal.
16. For the reasons given, I find that the appeal proposal would not be harmful to the character and appearance of the area, with particular regard to design, size and siting.
17. In the absence of such harm, I find no conflict with Policies DM1 or DM2 of the South Lakeland Development Management Policies Development Plan Document.

Other Matters

18. The Council has not contended the effect upon the living conditions of occupants of neighbouring properties, other than the relationship between the proposed window to bedroom 4 and the neighbouring property, Glen Crag. I do agree with that assessment and that privacy could be adequately maintained by the imposition of a planning condition.
19. The Council has not raised any other objections to the appeal proposal in terms of flood risk, the felling of trees, removal hedgerow, effect upon wildlife, access, parking and highway safety. There is no substantive evidence before me that would cause me to disagree with those assessments.
20. In the absence of harm, there is no conflict with the development plan when taken as a whole.

Conditions

21. In addition to the standard time limit, a condition specifying the approved plans and specialist reports is necessary to provide certainty. For the reasons given earlier, a condition requiring obscure glazing to the window of bedroom 4 is also necessary.
22. The Council has submitted that permitted development rights should be rescinded. Paragraph 53 of the National Planning Policy Framework states that planning conditions should not be used to restrict these, unless there is clear justification to do so. The reason provided by the Council would fall short of meeting the tests of reasonableness and necessity in this instance.

Conclusion

23. For the reasons set out above, the appeal should be allowed subject to the conditions specified.

C Dillon

INSPECTOR