



Appeal Decision

Site Visit made on 23 February 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 19th March 2021

Appeal Ref: APP/W0910/W/20/3262506

Abbey Road/Crompton Drive, Dalton-in-Furness, Cumbria LA15 8ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr David Abbott of Moorsolve Pension Scheme against the decision of Barrow-in-Furness Borough Council.
- The application Ref B07/2019/0778, dated 05 November 2019, was refused by notice dated 04 August 2020.
- The application sought planning permission for Minor material amendment (variation of condition No. 2) to provide a revised access to Plots 6 and 7 involving a new access onto Abbey Road and which shall carry the proposed public right of way without complying with a condition attached to planning permission Ref B07/2018/0089, dated 12 December 2018.
- The condition in dispute is No. 2 which states that: *The development hereby permitted shall be carried out in all respects in accordance with the application dated 24/07/2018 as amended and the hereby approved plans and documents defined by this permission as listed below, except where varied by conditions attached to this consent: Proposed site plan ref CROMPTON DRIVE SK3a dated 10/07/2018; Plot Drainage Guide ref 7748 01 rev P1; House type Split Level; House type Dalton; House type Cartmel; House type Adgarley; Ecological Appraisal Ref 981.18 dated February 2018; Biodiversity and Ecology/Habitat Enhancement Plan ref P.981.18.02; Construction Management Plan including drawing ref CDD201 (Tree Protection Plan and contractor car parking); Materials schedule ref CDD5; Road layout and sections dwg no 001 A1 rev A; Road details CDD.204A.*
- The reason given for the condition is: *In order to link the permission to the submitted application.*

Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. Section C of the appeal form refers to application ref B28/2019/0779. The appellant has confirmed that this is an error. The parties agree that the appeal relates to application ref B07/2019/0778, which is the development described in section E of the appeal form. I have determined the appeal accordingly.
3. Planning permission (B07/2018/0089) was originally granted for construction of 11 No. 3 and 4 bed houses including roads and sewers on land at Crompton Drive, Dalton-in-Furness. Condition No 2 of the permission specified the approved plans. The application subject of the appeal is made under Section 73 of the Planning Act for minor material amendments. It seeks to substitute a public right of way between Abbey Road and the development with a private vehicular access to serve Plots 6 and 7 and which would also serve as a

footpath. The appeal therefore seeks removal of condition No 2 of the 2018 permission and its replacement with a condition specifying the amended plans.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the Green Wedge.

Reasons

5. The appeal site is an undeveloped field between Abbey Road and the approved residential development at Crompton Drive which is currently under construction. The appeal site is in the designated Green Wedge that protects the transitional landscape character and the setting of Abbey Road as the main approach into Dalton from Barrow. In this regard, the Barrow Borough Green Infrastructure Strategy Draft Supplementary Planning Document Adopted February 2018 indicates that the key features of the Green Wedge include its openness, woodland, hedgerows and walls. In contrast to the densely developed and urban character of the nearby settlement, Abbey Road is sparsely developed and it has a relatively rural character and appearance.
6. The Private Link Drive Layout and Section plan illustrates a long sinuous road (the drive), with a maximum width of 4m, sweeping down through the appeal site. A section of the roadside boundary wall and associated vegetation would be removed to create a new highway access. The retaining wall would be returned into the site on either side of the access.
7. By virtue of the elevation and slope of the appeal site, the long meandering drive would be readily visible from Abbey Road including the footways to either side. It would be a prominent and discordant feature that would not relate well to the undeveloped character of the Green Wedge. It would be rendered more conspicuous by the associated circuitous vehicle movements. The loss of part of the traditional stone wall and tree cover would further erode the distinctive character of the Green Wedge and it would open up views of the drive and of the urban edge of the settlement beyond the appeal site. Consequently, the proposal would have an urbanising effect that would not be sympathetic to its rural and open surroundings.
8. The trees that would be removed to create the highway access form part of a tree group protected by Tree Preservation Order No. 1 2020 – Land on East Side of Abbey Road, Dalton-in-Furness LA13 0PE. The group comprises coppice trees including wych elm, hawthorn and ash. Irrespective that individually the trees may be of low value in terms of structural condition, they contribute to the leafy wooded character of Abbey Road and the Green Wedge. Moreover, the trees function to screen the views of the elevated hard built edge of the settlement. While there would be hedgerows between the appeal site and the parking areas at the top of the slope, there is little indication of replacement planting to compensate for the loss of the protected tree group or to otherwise screen and soften views of the drive and the settlement edge.
9. There are private residential driveways elsewhere along Abbey Road that interrupt the boundary wall and tree cover. However, they differ from the proposal including in terms of their width, length and design and surrounding context. They generally appear to be narrow drives serving individual dwellings, and relatively unobtrusively sited adjacent to boundaries and

screened by mature planting. They are not directly comparable to the proposal and they do not provide a justification for it.

10. Therefore, the proposal would harm the character and appearance of the area, with particular regard to the Green Wedge. It would conflict with Policy GI2 of the Barrow Borough Council Local Plan 2016-2031 Adopted June 2019 (the LP). This requires, among other things, that development maintains or enhances the character of the Green Wedge. Although not cited in the reasons for refusal, given that I have found the proposal would harm the character and appearance of the area, it would also conflict with the design and visual amenity aims of Policies DS2 and DS5 of the LP.

Other Matters

11. Other recently refused applications at this site included similar vehicle access from Abbey Road to Crompton Drive. Application ref B28/2019/0779 (approval of details reserved by condition No. 9) was refused in August 2020 on the same grounds as the appeal application. Application ref B13/2020/0745 for 2 pairs of semi detached houses in place of 2 detached houses (Plots 5 & 6) and provision of a vehicular access onto Abbey Road was refused in December 2020 on additional grounds relating to highway safety.
12. The application subject of the appeal was not refused on grounds relating to public safety. However, there is evidence¹ of serious accidents including fatalities along this part of Abbey Road. I understand the appellant's frustration that these concerns were not raised at an earlier stage. Nevertheless, I note that the highway authority now considers that, even with visibility splays, the proposed highway access would unacceptably increase the risk of conflict between road users to the detriment of the safe operation of the highway. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further.
13. The footpath to Abbey Road is a requirement of the 2018 permission. However, the residential development is already served by a vehicular access road and there appears to be little justification for a new drive to serve 2 dwellings. There would be little if any benefit to footpath users as a result of its shared use by vehicles. Moreover, the drive and associated vehicle movements would be more conspicuous than a modest footpath. I accept that the creation of a drive might require little additional work, but this does not justify a scheme that would conflict with the development plan.

Conclusion

14. For the reasons set out above, the proposal would harm the character and appearance of the area, including the Green Wedge. Notwithstanding that the appeal relates to a minor material amendment, the scheme would conflict with the development plan and there are no material considerations that would outweigh the conflict.
15. Therefore, the appeal should be dismissed.

Sarah Manchester INSPECTOR

¹ Correspondence from Cumbria County Council Highways Authority; accident data for Abbey Road.