



Appeal Decision

Site visit made on 18 May 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/W0910/W/23/3314824

8 Rock Lea Close, Barrow-In-Furness, Cumbria LA13 9FA

- 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 Alistair Wilcock on behalf of Mullberry Homes Ltd against the decision of Barrow-in-Furness Borough Council.
 - The application Ref B18/2022/0763, dated 2 November 2022, was refused by notice dated 13 December 2022.
 - The development proposed is described as the "erection of approved house type but constructed with eaves 1m taller".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of approved house type but constructed with eaves 1m taller at 8 Rock Lea Close, Barrow-In-Furness, LA13 9FA in accordance with the terms of the application, Ref B18/2022/0763, dated 2 November 2022, and the plans submitted with it, subject to the following conditions:
 - 1) Notwithstanding the details shown on submitted plans, this planning permission relates solely to the increased height of the eaves and is not granted for the garage, driveway, and the pond which are shown on RL/20 G – Proposed Site Layout and Type M3 (Drawing No: 1) - Proposed Floor Plans and Elevations (dated 23 February 2022).
 - 2) Prior to occupation of the dwelling hereby approved, the dwelling must be drained in accordance with the details approved under application reference B18/2019/0671.
 - 3) Prior to occupation of the dwelling hereby approved, the developer shall provide all occupiers of the dwelling with a copy of the Householder Sustainable Drainage Maintenance Plan (prepared by M & P Gadsden Consulting Engineers Ltd).
 - 4) Prior to occupation of the dwelling hereby approved, the plot shall be landscaped in accordance with the approved landscaping scheme, approved under application reference B28/2017/0685.

Background and Main Issues

2. The appeal site has a complex planning history, with planning permission¹ originally granted in 2016 for the erection of 10 dwellings. The scheme is under construction and has been the subject of a number of subsequent applications

¹ Planning Application Ref: 2016/0789

for revisions to the approved scheme. The dwelling which is the subject of the appeal has been built, and I have therefore considered the appeal on the basis that planning permission is being sought retrospectively. I also note that the Council has served an enforcement notice on Plot 1 and there is a current appeal² under consideration against this notice. Whilst I am aware that this appeal exists, I have considered this case on its own individual merits.

3. The description of development provided on the application form refers solely to the change in height of the eaves, with the height increased by approximately 1m from the approved plans. The appellant has confirmed that they are only seeking approval for these works and not to any other changes shown on the submitted plans, which include an attached garage, repositioned driveway, and a drainage pond. The appellant has suggested that the exclusion of the garage, driveway and pond could be achieved by imposition of a suitable planning condition. In their submission, the appellant has indicated that they have submitted a separate application for the garage. However, I understand from this application has not been registered and I have not been provided with any updated evidence in this regard.
4. The Council in considering this application considered that the garage, driveway, and pond, despite not being included in the description of development provided on the application form, formed part of the application, and determined the application on this basis.
5. However, based on the evidence before me, it is clear that the appellant is only seeking approval for the increased height of the eaves, notwithstanding the other details which are shown on the submitted plans. I am therefore satisfied that I have sufficient certainty in relation to the development being applied for to enable me to consider the appeal on this basis.
6. Therefore, the main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the development would be acceptable in terms of highway safety with particular regard to whether a reduction in off-street parking provision would lead to conflict with pedestrians or increased demand for parking within the highway;
 - Whether the development would provide satisfactory drainage arrangements, with particular regard to its relationship to the approved drainage scheme for the wider site; and
 - Whether sufficient information has been provided to demonstrate that the development would not cause harm to the neighbouring tree.

Reasons

Character and Appearance

7. The appeal relates solely to Plot 4, now known as 8 Rock Lea Close. It is a detached dwelling located within a wider development of 10 houses, which are currently under construction. As outlined above, the appellant is seeking to obtain approval for an increased eaves height of approximately 1 metre.

² Appeal Ref: APP/W0910/C/23/3307167

8. In terms of the form and appearance of the dwelling, which has been constructed, the dwelling is constructed of a matching red brick and roof tile to the other properties in the development, which are mixed in their design and layout. However, the revised dwelling, when viewed either individually or as part of the wider development within the street scene is in keeping with the character and appearance of the site. The Council concluded that the revised house type, due to its location within the site, its appearance being in keeping in terms of materials and its overall height being similar to neighbouring plots would not cause harm to the character and appearance of the area. This is reflected in the Council's reasons for refusal which do not mention any harm to the character and appearance of the area. I have not been presented with any evidence which would cause me to reach an alternative view.
9. Consequently, I therefore conclude that the proposed increase in the height of the eaves of the dwelling would be acceptable in terms of the effect on the character and appearance of the area. The proposal would therefore be in accordance with Policy DS5 of the Barrow Borough Local Plan 2019 (BLP) which requires new development to be of a high-quality design, which uses design cues and materials appropriate to the local area.

Highway Safety

10. The Council's first reason for refusal relates to highway safety, with particular reference to a reduction in on-site parking provision and potential conflict with pedestrians and other highway users. As outlined above, the appellant is not, through this application, seeking approval for any changes to the approved parking arrangements, which have previously been found to be acceptable.
11. Consequently, I therefore find that the proposed increase in the height of the eaves of the dwelling would be acceptable in terms of highway safety. As there are no changes to the approved parking provision, the proposal would therefore not conflict with Policy I6 of the BLP which requires proposals for new developments to provide adequate parking provision in consultation with the Local Highways Authority and in accordance with the parking standards in the Cumbria Development Design Guide.

Drainage Pond

12. The submitted plans show drainage features sited within the rear garden of Plot 4, which differ from the approved drainage scheme for the whole site. As outlined above the appellant is not seeking make changes to the drainage scheme, and this was submitted in error. The appellant sought to resolve this by submitting a revised drawing, but this was not accepted by the Council. Notwithstanding this, and on the basis that the appellant is not seeking to alter the approved drainage scheme I find that the increased height of the dwelling would not impact on the approved drainage scheme.
13. Consequently, I therefore find that the increase in the height of the eaves of the dwelling would not be contrary to Policy C3a of the BLP. This policy seeks, amongst other things, to ensure that new development prioritises the use of sustainable drainage systems to ensure there is no increase in flood risk from surface water.

Trees

14. Situated on the rear boundary of Plot 4, but located in the grounds of the neighbouring property, are some tall, mature trees, including tree 'T12' which shown on Plan Ref R/20G together with its root protection area. These trees contribute positively to the visual amenity of the area and to the visual separation between the plots. However, I have not been provided with any specific assessment of these trees, nor has the Council provided any evidence in which to substantiate their reason for refusal in this regard.
15. The Council's concern relates to the siting of the drainage pond, which would fall within the root protection area of T12. However, as outlined above, the appellant has confirmed that this does not form part of this application. On this basis, subject to the imposition of a planning condition which excludes the pond from the approved details, I am satisfied that the proposed increase in the height of the eaves of the dwelling would not cause harm to the neighbouring tree,
16. Consequently, I therefore find that this would be in accordance with Policy N4 of the BLP which seeks to protect trees which positively contribute to the visual amenity and environmental value of that location.

Conditions

17. I have had regard to the Council's suggested conditions and considered them against the statutory tests outlined in the Framework and the advice in the Planning Practice Guidance. I have made minor amendments, where necessary, to ensure the conditions comply with these documents.
18. The application is retrospective therefore it is not necessary to impose the standard time condition. I have imposed a condition (1) which confirms that this approval relates solely to the increased eaves height of the dwelling, and excludes the garage, driveway, and pond.
19. I have also imposed conditions relating to drainage (2 and 3) and landscaping (4). These conditions are required in the interests of certainty and to ensure that the development of this plot is carried out in accordance with the approved details for drainage infrastructure and landscaping requirements for the wider site.

Conclusion

20. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

K Lancaster

INSPECTOR