

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2023/0512

Proposal: Front porch and single storey wrap around side and rear extension

Location: 4 Braddylls Court, Main Street Bardsea ULVERSTON LA12 9SR

Applicant: Mr Michael Dickinson

Committee Date: 11th April 2024

Reason for Committee Level Decision:

The Parish Council has objected to the proposal and the application is recommended for approval.

Officer: David Gibson



1.0 SUMMARY

- 1.1 Full planning permission is sought for the erection of a front porch and wrap around extension to the side and rear.
- 1.2 The works to the side and rear would have a flat roof and would be of a relatively contemporary design. Materials would be a mixture of stone and render
- 1.3 One objection has been received from the Parish Council, and two objections have been received from adjoining neighbours.
- 1.4 Amended plans have been received which moves the rear extension to the south, to lessen the impact on the property to the north, and to increase the amount of useable amenity space to the rear of the property. The amended plans also show that the proposed southern elevation of the extension would not be built on top of the existing boundary wall.
- 1.5 It is considered that the proposed works would not have a significant adverse impact on the amenity of the neighbouring residents, would not have an adverse impact on the character of the area, and would not have an adverse impact on highway safety.

2.0 RECOMMENDATION

- 2.1 The application is recommended for approval with conditions

3.0 THE PROPOSAL

- 3.1 Full planning permission is sought for the erection of a front porch and a wraparound extension to the side and rear. The front porch would have a pitched roof. The side and rear extension would have a flat roof. Windows would be placed in the side and rear elevations.
- 3.2 The rear extension has been moved to the south to move it away from the property to the north in an attempt to lessen the impact on the adjoining property. Windows would be placed in the southern and west elevations of the proposed dwelling.
- 3.3 A new fence was originally shown on the plans between the application site, and the property to the north, 3 Braddylls Court. Reference to this new fence has been removed from the proposed plans

4.0 SITE DESCRIPTION

- 4.1 The application site relates to a semi-detached dwelling. A residential property lies to the north, west and east of the site. Agricultural land lies to the south of the site.

- 4.2 Access is gained to the site from an existing entrance on the eastern boundary.
- 4.3 Dwellings of differing sizes and styles are located in the immediate vicinity.

5.0 SITE PLANNING HISTORY

- 5.1 None relevant to this application

6.0 CONSULTATIONS

- 6.1 Urswick, Bardsea and Stainton Parish Council – Objections to the development
- 6.2 “Loss of light for the next door neighbour and therefore overshadowing The areas of the gardens are small and to put an extension and a high fence on the boundary would encroach significantly on light and space for the next door property.

Visual impact – the 4 identical properties that 4 Braddylls Court is one of all currently have approx. 3 foot fences which presumably were part of the original permission, designed to maintain an open outlook. The visual impact of the high fence and extension is both inappropriate to the area where the houses sit in Bardsea and would negatively change the character of the 4 properties.

Overdevelopment – for the reasons above we feel the plans represent overdevelopment, inappropriate to the site.

The plans represent a change to the boundary wall which does not belong to the applicant. We feel this is completely unnecessary and again not in keeping with the surroundings.”

Additional comments have been received to the amended drawings –

“there are ongoing concerns about the appearance of the rear extension which will now be continuous with the wrap around side extension. The combined size relative to the available space at the rear and side of the property is disproportionate and certainly out of keeping with the other 3 properties that form the 2 matching pairs of semis as originally built.

The amended plans show that the now continuous southern face of the proposed extension to have been moved northward but only by a matter of inches I suspect. The plans still require a lowering of the existing stone boundary wall with the extension touching it. This would not be acceptable for grazing cattle in the field. In terms of digging footings the wall is likely to have to be taken down and rebuilt. Ownership of the wall, trespass, damage to property etc whilst not a planning consideration could well become a matter for litigation.

Based on the original PC response to the application, it is accepted that the new plans address some of the concerns that were made regarding loss of light, overshadowing and encroachment on Number 4.

However, in terms of the other objections submitted, these still stand as they were originally expressed. In fact in terms of the visual impact, opinion is that the now continuous aspect as viewed from the south with a lowered field wall will be even more intrusive and the extension literally looks to have been “shoe horned” into the available space with little consideration for its visual appearance in the context of the site that it is proposed to occupy.”

7.0 REPRESENTATIONS

7.1 Two objections have been received from members of the public.

7.2 3 Braddylls Court – Objects to the development -

- loss of light
- overbearing impact
- loss of view
- canopy overhanging neighbours land
- Loss of garden space
- concerns over noise and disturbance from building work
- Fence would lead to overbearing impact
- Impact on character of the rural area

7.3 Owner of the field to the south of the application site – Objects to the development –

- Changes to the boundary wall which is not in the ownership of the applicant. Wall is used to house livestock. Lowering wall could create a route for escape or lead to structural issues
- Concerns over the overhanging of the boundary
- Overdevelopment of the site
- Design of the extension would impact on the approach to Bardsea
- Loss of garden space
- Lack of separation distances between properties

7.4 An additional consultation exercise was carried out after the amended plans were received. Additional comments were received from the owner of the field to the south of the site reiterating that the wall is not within the ownership of the applicant and that building work could not be carried out.

8.0 RELEVANT PLANNING POLICY

8.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) require local planning authorities to have special regard to the desirability of preserving listed buildings, their setting and any feature of special architectural or historic interest which they possess.

South Lakeland

- South Lakeland Core Strategy - adopted 20 October 2010
- South Lakeland Local Plan Land Allocation Development Plan Document Policies - adopted 17 December 2013.
- South Lakeland Development Management Policies Development Plan Document - adopted 28 March 2019.

Other Material Considerations

National Planning Policy Framework (NPPF)

- 8.4 The NPPF sets out governments planning policies for England and how these are expected to be applied. This is a material consideration in planning decisions.
- 8.5 At the heart of the NPPF is a presumption in favour of sustainable development (Paragraph 11). However, Paragraph 12 confirms that the presumption does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. In this case, the relevant sections of the NPPF are:
- 8.6 The following sections are considered relevant to this application:

9.0 PLANNING ASSESSMENT

The presumption in favour of sustainable development

- 9.1 Paragraph 8 of the National Planning Policy Framework (NPPF) introduces the overarching economic, social and environmental objectives central to achieving sustainable development.
- 9.2 Paragraph 9 of the NPPF is clear that these objectives should be delivered through the preparation and implementation of development plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

Main Planning Issues

- 9.3 The main planning issues for this planning application are as follows:
- Landscape and Visual Impacts
 - Impact on residential amenity

- Drainage
- Biodiversity
- Highway Safety

Landscape and Visual Impacts

- 9.4 National and Local Policy requires development to take account of the settlement vernacular features and character. Policy CS1.1 requires that development is of a high quality and that localised and appropriate design is incorporated to retain distinctive character/ sense of place and to enhance the existing building. Policies CS8.2 and Policy CS8.10 require that the siting, design, scale and materials of all development should be of a character which maintains or enhances the quality of the landscape or townscape and, where appropriate, should be in keeping with local vernacular tradition. Policies DM1 and DM2 require that development responds appropriately to the proposal site location context, local and settlement character and distinctiveness.
- 9.5 The bulk of the proposed development is located to the rear and side. A small porch would also be erected to the front of the dwelling. The extension to the side would be set back from the front elevation of the dwelling and would be much lower than the host dwelling. It would be visible when viewed from the south, but when visible from the public realm, given the low profile, high quality design, and the limited width, the proposed extension would be seen within the context of the dwelling. The design and use of high quality materials would ensure that it would assimilate well with the host dwelling and would not create an incongruous feature in the immediate and wider area. It is considered that it would assimilate relatively well with the host dwelling.
- 9.6 Concerns have been received stating that the development would have a significant adverse impact on the character of the area and the entrance into Bardsea. It is considered that the development, due to its limited width and height, would be seen within the context of the dwelling and would not have a significant adverse impact on the character of the area. It would be single storey, and is considered to be subservient to the host dwelling.
- 9.7 Concerns have also been raised over the lowering of the boundary wall, specifically, the impact this would have on the character of the area. This element of the works would be minor and would not have a significant impact on the character of the area in the opinion of the Planning Officer. The agent has stated that the applicant owns the wall and is within their rights to lower the wall without planning consent. This matter is a civil issue between both parties and ownership is not a planning matter. Notwithstanding this, the proposed extension that would result from the works is considered to be acceptable in terms of its visual impact.
- 9.8 Concerns have been raised over overdevelopment of the site. The plot is considered to be large enough to accommodate a moderate extension. The property would still maintain adequate amenity space to the rear and front of the dwelling for a property of this size. The relocation of the extension away

from the northern boundary would create adequate useable private amenity space at the rear of the property.

- 9.9 Overall the proposals are considered to be compliant with Policy DM2 of the DM DPD which requires that new development should be "well proportioned, positioned and in scale with its surroundings...by avoiding the creation of dominant or incongruous extensions and alterations to existing buildings."

Residential Amenity

- 9.10 Policy DM1 of the DM DPD requires that development should ensure the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants. An objection has been received which relates to the potential for the creation of an overbearing impact, loss of light, and loss of view towards to the sea.
- 9.11 The proposed development to the rear would be located off the boundary with the adjoining property to the north. The amended plans show that the scheme would accord with the 45 degree code. Furthermore, the scheme would have a flat roof with a limited height. The extension would not be significantly larger than could normally built under permitted development. Given the above, it is considered that on balance, the works to the rear would not have a significant impact on the neighbouring property to the north. The extension would be seen as a compromise between the need for space by the applicant and an acceptable impact on the neighbouring residents. With regards to the front extension, this would be a minor porch extension, located close to the door of the property to the north. It would not lead to the creation of a significant overbearing impact on the property to the north.
- 9.12 Due to the location of the development, the layout of the property and its neighbours, and the separation distances involved there would be no significant overshadowing impact from this minor development to the rear, side, and front.
- 9.13 The proposed windows in the development would replicate the views from the host dwelling and would not lead to a loss of privacy given the existing boundary treatment, and the distance from the existing boundaries. Whilst two small windows are located in the eastern elevation of the property to the west, one of these windows serves a bathroom and is obscurely glazed, and the other, given the angle in relation to the development, would not be directly overlooked to an extent that would warrant refusal of the application. It is therefore considered that the development would not lead to the loss of privacy for the neighbouring residents.
- 9.14 Overall, it is considered that the development would not cause significant neighbouring amenity harm through the material considerations of overshadowing, overlooking or causing matters of an overbearing nature.

Drainage

- 9.15 Surface water would be disposed of through the existing measures. The existing drainage is considered to be an appropriate arrangement that would not result in run off increasing the risk of flooding.
- 9.16 Based on the above the proposed development is considered to comply with Policy DM6 and DM7 of the Development Management Policies DPD and Para 159 of the NPPF.

Biodiversity

- 9.17 The NPPF para 170 (d) requires that proposals minimise impacts on and provide net gains for biodiversity. This is echoed through Local Policies DM1 and DM4, which require that unless it can be demonstrated that it is not possible, all development proposals should result in net gains for biodiversity.
- 9.18 A condition will be placed on any permission requiring a bat or bird box be installed to ensure a net gain in biodiversity in accordance with the above policies.

Highway Safety

- 9.19 The development would not lead to an increase in the number of vehicles entering or leaving the site or need for car parking. The existing access arrangements will not be altered. The access and level of parking on site is acceptable and would accord with Policy DM9 and the parking standards within the Cumbria Design Guide.

Other Issues

- 9.20 An objector has raised concerns that the works would overhang the southern boundary wall. Amended plans have been received which shows that the canopy would not overhang the boundary. The agent has stated that the works would be built on land owned by the applicant through the signing of Certificate A on the application form. Land ownership is a civil issue between the two parties and is not a material planning consideration.
- 9.21 Concerns have also been raised over the lowering of the wall and subsequent building on top of it by the land owner to the south of the application site. Reference is made to the Part Wall Act in the objection. This is a separate piece of legislation and is outside the control of the Planning Department. This is an issue between the two parties and is not a material planning consideration.
- 9.22 An objection has been received which relates to loss of view towards the sea. The loss of view is not a material planning consideration and this cannot be taken into account when determining a planning application. A neighbour does not have the right to a view over private land.

10.0 CONCLUSION

- 10.1 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated.
- 10.2 Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions (i) eliminating discrimination, (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are age (normally young or older people) disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 10.3 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

RECOMMENDATION

- a) It is recommended that planning permission be granted subject to the following conditions:

Time Limit for Commencement

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved Plans

2. The development hereby granted shall be carried out in accordance with the drawings hereby approved:

- i) Proposed Plans, Elevations & Site Block Plan - 2304 03D - A1, received 21st December 2023
- ii) Location Plan, received 3rd July 2023
- iii) Site survey, received 3rd July 2023

Reason: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

Materials

3. The development hereby permitted shall be constructed entirely of the materials, which are shown on the submitted application form and 'Proposed Plans,

Elevations & Site Block Plan - 2304 03D - A1'. The approved materials shall be retained thereafter, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the development is of a high quality design in accordance with Policy DM2 of the Development Management Policies Development Plan Document and Policy CS8.10 of the South Lakeland Core Strategy.

Bat/Bird Box

4 Within 4 weeks from the completion of the development, a bat/bird box shall be installed within the site. The bat/bird box shall be retained for the life of the development. A native tree shall be planted within the first planting season following the substantial completion of the development.

Reason: To ensure the development achieves a net gain in biodiversity in accordance with Policy DM1 and DM4 of the Development Management Policies Development Plan Document.