
Appeal Decision

Site visit made on 17 January 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 30th January 2017

Appeal Ref: APP/M0933/W/16/3157848

Yew Tree, Viver Lane, Hincaster, Milnthorpe, Cumbria, LA7 7NF

- 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 Cooper against the decision of South Lakeland District Council.
 - The application Ref: SL/2015/0921, dated 4 October 2015, was refused by notice dated 22 April 2016.
 - The development proposed is subdivision of property, creating an additional dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. Whilst the planning application form states that the development has not started, it is described in the planning officer's report and on the decision notice as retrospective as the connecting door between the main house and the annex has been blocked up. I was not able to enter the property to verify this. However, as there are no external physical works proposed, within the context of the appeal and the reason for refusal of the planning application, it was not essential that I do so.
3. Section 73A of the Town and Country Planning Act 1990 (as amended) (the Act) makes allowance for the submission of a planning application for development which has been carried out before the date of the application. Section 55 of the Act describes development as the carrying out of building operations or the making of material changes of use, as opposed to their retention or continuation. I have therefore dealt with the appeal on the basis that it relates to the subdivision of an existing dwelling to form an additional dwelling.

Main Issue

4. The main issue in this appeal is whether the site is a suitable location for housing, having particular regard to access to shops, services and employment opportunities, and to the development plan.

Reasons

5. Policy CS1.1 of the South Lakeland Core Strategy 2010 (Core Strategy) sets out sustainable development principles including: protecting the countryside for
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its intrinsic beauty; directing most new development to existing service centres; and minimising the need to travel. It also sets out a sequential approach to development. This general sequential approach has been superseded by the National Planning Policy Framework (the Framework) and consequently this element of Policy CS1 is not wholly consistent with national policy. Nonetheless, the remainder of the policy seeks similar objectives to the framework and as a whole, significant weight can still be attached to it. Policy CS1.2 establishes a settlement hierarchy, which seeks to direct new development firstly to Principal Service Centres followed by Key Service Centres, Local Service Centres, then finally smaller villages and the countryside. Policy CS1.2 states that approximately 11% of new housing and employment development will be in the network of smaller villages and hamlets and also encourages the re-use of existing buildings and previously developed land. Within the smaller villages and hamlets at the bottom of the settlement hierarchy, Policy CS1.2 allows for new small scale infilling and rounding off development in order to satisfy local need.

6. The appeal building is a residential annex that has been constructed to the side of Yew Tree, a semi-detached house situated within a small group of buildings on Viver Lane which includes other houses and a small industrial unit. The appeal building is located beyond the limits of any settlement and the closest settlement with a range of shops, facilities and services is Milnthorpe, approximately 4 kilometres to the south west.
7. There is disagreement between the parties as to whether the appeal proposal constitutes infilling or rounding off as envisioned by Core Strategy Policy CS1.2. Whilst the development does not meet the criteria for infilling or rounding off set out in the supporting text to Policy CS1.2, the point is in a large degree moot as the appeal building already exists in the form of an annex to the main house. The question is more correctly, in my view, whether the site is a suitable location in which to establish a new, separate, dwelling which will be functionally independent of Yew Tree and will have different requirements to a residential annex providing ancillary accommodation to the main house.
8. The conversion or reuse of an existing building would be in line with Core Strategy Policy CS1.2. However, there are no public transport services within walking distance of the appeal building and, whilst Milnthorpe could be accessed by cycle, I saw that the roads leading to it are narrow, winding, and unlit. Due to the nature of the roads, this is unlikely to be attractive option, particularly during the winter months. The occupiers of the new dwelling would, consequently, be dependent on the private car to meet their day to day travel needs. This conflicts with aim of Policy CS1.1 to minimise the need to travel and provide choice of sustainable transport modes. In this respect the appeal building is not in a suitable location with regard to access shops, services and employment opportunities and would conflict with the relevant requirements of Core Strategy Policies CS1.1 and CS1.2 when taken as a whole.
9. The appellant suggests that the development will provide a new dwelling within the existing hamlet and will remove need for a new dwelling elsewhere in rural area. There is no substantive evidence from either party in respect of the need for additional housing in this area. The Council state that there is no evidence that the exiting annex is redundant or that the dwelling has been

unsuccessfully marketed in its present form, and this is not challenged by the appellant.

10. Core Strategy Policy CS6.4 sets out a rural exception policy for affordable housing, however, the proposal is not being promoted as affordable housing within the definition set out in the Framework. Within this context I can, therefore, only give very limited weight to this point. On the balance of the evidence, the proposed dwelling is not required to meet a local need.
11. Policy CS8.2 seeks to protect the special qualities and local distinctiveness of the area, and maintain distinctive settlement character. Whilst I have had regard to the Council's point that the proposal would create a terraced form where there is currently a pair of semi-detached houses, the appeal building and domestic curtilage that would be associated with it already exists, and as such is part of the existing built form and character of the group of buildings. Consequently, the use of the appeal building as a separate dwelling would not be inherently harmful to the existing character and appearance of the area and the proposal would not conflict with Policy CS8.2.
12. The Framework is a material consideration that must be taken into account. Paragraph 55 of the Framework relates to development in rural areas. Although development in one village may support services in villages nearby, there is no evidence before me that there are services in nearby settlements that would be at risk were the development not to proceed. Although the proposed development would not meet any of the special circumstances set out in Paragraph 55, as it is located within an existing group of buildings, it could not be described as isolated. Nonetheless this fact, of itself, does not outweigh the conflict that I have found with the policies in the development plan.
13. Although I have found that the proposed development would not cause harm to the character and appearance of the area and that the re-use of the building would meet one of the criteria within Policy CS1.2, I have found that the appeal building is not in a suitable location for a new dwelling with regard to access to shops, services and employment opportunities and that it is not demonstrated that there is a need for additional dwellings in this part of the district. In my view these are important matters, to the extent that the proposal should be regarded as being in conflict with the development plan as a whole, notwithstanding compliance with other policies which are referred to above.
14. I therefore conclude that the proposed development is not a suitable location for housing having particular regard to access to shops, services and employment opportunities and to the development plan. Although it would not conflict with the requirements of Core Strategy Policy CS8.2 which seeks to ensure that new development does not adversely affect the appearance of the area and has regard to its context, the proposal conflicts with the relevant requirements of Core Strategy Policies CS1.1. and CS1.2 which set out development principles and a settlement hierarchy for the district. The proposal also does not meet the requirements for rural exception affordable housing that are set out in Core Strategy Policy CS6.4.

Conclusions

15. Paragraph 49 of the Framework requires that housing applications should be considered in the context of the presumption in favour of sustainable development set out at Paragraph 14. This requires that development

proposals that accord with the development plan should be approved without delay and, implicit in this, that proposals which conflict with the development plan should be refused. It is not suggested that the relevant policies for the supply of housing in the development plan are not up to date.

16. Paragraph 7 of the Framework sets out that in achieving sustainable development the planning system needs to perform an economic role, a social role and an environmental role. The proposed development would result in a very small and limited economic benefit resulting from increased expenditure in local economy. The provision of an additional dwelling in the local housing stock would be a small-scale social benefit, however, there is no substantive evidence of need for additional housing. Whilst the proposed development would not cause harm to the character and appearance of the locality, the increased need for the future occupants to travel by private car to meet their day to day transport needs results in the development not meeting the environmental dimension of sustainable development. As the three dimensions are mutually dependent, the proposed development would, therefore, not represent sustainable development.
17. I have found that the proposed development would conflict with the development plan and for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR