

Appeal Decision

Site visit made on 26 June 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/Z0923/W/17/3172225

15 Skelsceugh Road, Winder, nr Frizington, Cumbria CA26 3UE

- 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 Anthony Corlett against the decision of Copeland Borough Council.
 - The application Ref 4/16/2355/OF1, dated 7 September 2016, was refused by notice dated 5 December 2016.
 - The development proposed is change of use from agricultural ground (field) to residential / domestic garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my visit to the site there was a wooden shed and some building materials within the area subject to this appeal. I also saw that an area of land at the rear of No 15 had been marked out with string and metal posts. For the avoidance of doubt however, I have determined the appeal on the basis of the plans, drawings and information before me.
3. I note that the appellant states that some of the land to the rear of 15 Skelsceugh Road has in the past been rented from a local farmer for the purposes of garden land. However, it is not for me, under a section 78 appeal, to determine whether or not that use of the land is lawful. To that end, it is open to the appellant to apply for a determination under sections 191 / 192 of the Act¹, and my determination of this appeal does not affect the issuing of a determination under the provisions of those sections, regardless of the outcome of this appeal.

Main Issues

4. The main issues are the effect of the proposed change of use of the agricultural ground (field) to residential / domestic garden on:
 - The character and appearance of the surrounding area; and
 - The living conditions of occupiers of the adjoining property, with particular reference to privacy.

¹ Town and Country Planning Act 1990 (as amended)

Reasons

Character and Appearance

5. The Council refer to Cumbria County Council's *Cumbria Landscape Toolkit* in their delegated officer report which identifies and describes varying landscape types and characters. Although I have not been provided with a copy of that document, I am advised that it states that the appeal site lies within the 'Ridge and Valley' landscape sub-type of the 'Lowland' area and that such areas are noted for, amongst other things, their linear village forms.
6. Winder is a small, linear settlement located in open countryside, comprised of a mix of detached, semi-detached and terraced properties on a straight, rural lane leading from the main road to the north. The linear nature of the settlement is clearly evident on approach from the north as the land falls away towards Winder. The appeal property, No. 15, is the first property on the western side of Skelsceugh Road when approaching from the north, and both it and the land behind it are equally visible on approach. The wider field, much like the small part of it that forms the appeal site, is largely flat and low lying, and is visible across the open fields to the north.
7. The linear nature of the village is largely continued at the rear of the row of houses on the western side of the lane. Although the extent of the gardens of properties on this side of the road is not truly uniform, there is a broad consistency of alignment along the length of the village that makes a clear distinction between the residential garden plots and the open land behind.
8. The proposed change of use of land within the appeal site to residential domestic garden would appear jarringly at odds with the prevailing form and character of the settlement. The additional garden area would extend some 18 metres beyond the low stone wall that marks the existing extent of the small rear yards at Nos. 13 – 15. As such, it would introduce an incongruous and alien garden layout at the rear of the houses on the western side of the lane that would erode the otherwise steadfastly linear nature and character of the village with an unwarranted encroachment into the countryside beyond. It has been suggested that there are other examples elsewhere in Winder where gardens have been extended into the adjoining open countryside. That may be so, but I have not been provided with any further details of those examples, or the circumstances surrounding their creation, and I must in any event determine the appeal on the basis of the evidence before me.
9. Policy ENV5 of the Copeland Local Plan 2013 – 2028 (LP) seeks to protect and enhance the Borough's landscapes by, amongst other things, seeking to ensure that development does not threaten or detract from the distinctive characteristics of that particular area. For the reasons set out above, I find that the proposal would fail to do so, thereby resulting in harm to the character and appearance of the area, and thus I conclude it to be contrary to LP policy ENV5. LP policies ST1 and ST2 set out broad strategic objectives and principles for development; the former recognising, amongst other things, the importance of protecting and enhancing landscapes, the latter appropriate forms of development beyond settlement boundaries. Together, I find these policies to be consistent with one of the core planning principles of the National Planning Policy Framework (the Framework) of recognising the intrinsic character and beauty of the countryside.

Living Conditions

10. The northern boundary of the appeal site would run broadly parallel with the existing post-and-wire fence boundary just to the north of the site. This would result in the appeal site being offset from the rear of No. 15, its boundaries canted to the south such that it would extend partially across the rear of the adjoining property at No. 14.
11. The area at the rear of No. 14 is of limited size. It is however, by virtue of the field beyond and the layout of the single storey outriggers at Nos. 13, 14 and 15, relatively private, in as much as it is not directly overlooked by, or from, adjacent houses or garden areas. The alignment of the appeal site's proposed boundaries would however result in an awkward relationship between the site and the rear of No. 14. Not only would the depth of the proposed garden area provide the opportunity to look back towards the rear-facing windows and small rear yard of No. 14, but the offset and angled boundary would mean that it would be possible to do so across a short distance and directly in line with the rear of No. 14.
12. Regardless of the appellant's future intentions regarding the use of the land or any means of its enclosure, this would, I conclude, be harmful to both the privacy of occupants of that property, and the outlook there from. The proposal would thus fail to create or maintain a reasonable standard of general amenity, contrary to LP policy DM10(E) and LP policy ST1(D)(ii). In failing to secure a good standard of amenity, it would also be contrary to one of the Framework's core planning principles of seeking to always secure a good standard of amenity for all existing occupiers of land and buildings.
13. In addition, I note that the second of the Council's refusal reasons refers to LP policy DM18. However, I do not consider the proposal to be an extension or alteration to an existing dwelling. Whilst it does refer to privacy and overlooking (criterion C) I have given the provisions of this policy only limited weight in my consideration of the proposal, and I consider these matters to be more fully addressed in the policies referred to above.

Other Matters

14. Concerns have been raised regarding the extent to which the appellant's future intention of erecting a garage within the appeal site might have influenced the Council's determination of the application. I have also noted the concerns of neighbours regarding the potential for such a circumstance. However, there are no details of any such proposals within the case before me and I therefore give such concerns very limited weight in my consideration of the current proposal.
15. My attention has been drawn to descriptions given in sales particulars relating to No 15 in which reference is made to 'front and back gardens', and also to the appellant's frustration regarding the willingness or availability of Council staff to discuss the proposal post-decision, and the decision in the context of previous Council statements regarding development proposals. However, the accuracy of sales particulars and these other matters are for the appellant to resolve with the Council and are not material considerations to which I can give any weight.

Conclusion

16. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR