
Appeal Decision

Site visit made on 25 July 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/Q9495/W/17/3173540

Stanwin, Fenton, Keswick, Cumbria CA12 4AZ

- 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 & Mrs Richard and Lynn Dixon against the decision of Lake District National Park Authority.
 - The application Ref 7/2016/2135, dated 20 May 2016, was refused by notice dated 3 November 2016.
 - The development proposed is the demolition of an existing bungalow to be replaced with 3 no. dwellings (1 no. detached and 2 no. semi-detached).
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing bungalow to be replaced with 3 no. dwellings (1 no. detached and 2 no. semi-detached) at Stanwin, Fenton, Keswick, Cumbria CA12 4AZ in accordance with the terms of the application Ref 7/2016/2135, dated 20 May 2016 and subject to the conditions below.

Procedural Matters

2. In coming to my decision I have taken into consideration that the Lake District has been officially designated as a UNESCO World Heritage Site. From the information before me I am satisfied that the proposed development would not result in harm to the heritage value of the Lake District landscape.
3. Furthermore, for the avoidance of doubt, a screening direction was issued by the Secretary of State to the effect that the proposal does not constitute Environmental Impact Assessment development.

Main Issue

4. The main issue is the effect of the development on the living conditions of neighbouring residents with particular regard to outlook and natural lighting of rear gardens.

Reasons

5. The site is part of a linear development of detached and semi-detached dwellings which are of similar age and varied design. Ground levels slope markedly to the north-west allowing for extensive and open vistas of the surrounding fell landscape, unimpeded by built development. Ground levels also fall less significantly along the road in a south-westerly direction.
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6. The existing bungalow is set within a relatively extensive site, with generous spacing to the side boundaries with neighbouring properties. Therefore, whilst the proposal would increase the density of development, the new dwellings would sit comfortably within their respective plots.
7. Though the front elevation of the proposed detached dwelling would be set forward in relation to No 13 Fenton, the main part of the mass of that dwelling would be focussed towards the side of its neighbour. There would be significant separation between the sides of the two dwellings, which would be similar in overall height, and furthermore an intervening garage would be located in a similar position to that which currently exists on site. It seems to me that outlook from the front, side and rear elevations of No 13, taking into account the relatively small rise in ground level to the appeal site, would be substantially unchanged.
8. Similarly, though the rear of the proposed semi-detached pair would be set back in relation to the rear of No 14 Fenton, the dwellings would be of similar height and there would be substantial separation between the sides of the buildings. Therefore whilst the development would be likely to encroach on some views from the rear gardens of adjacent properties, across the site towards the surrounding landscape, it would not cause any overbearing sense of enclosure or dominance. Accordingly this would not result in unusually oppressive living conditions for adjacent residents in terms of harm to outlook. Although the side elevation of the proposed semi-detached pair would be closer than the existing bungalow to the side elevation of No 14, it seems to me that this relationship would be broadly consistent with that which would result from the planning permission (Ref: 7/2016/2137) granted by the Council for two detached dwellings on the site and which could be implemented in any event.
9. The Council has also raised concern with regard to the effect of the development on natural light to neighbouring garden areas. However, despite the set back of the rear elevation of the semi-detached pair, taking into account the generous degree of separation and similar heights between the proposed and existing buildings, I am firmly of the view that there would be nothing unusual about the relative siting of dwellings that would lead me to conclude that natural light to garden areas would be prejudiced.
10. I therefore find that the proposal would not result in harm to the living conditions of neighbouring residents with particular regard to outlook and natural lighting of gardens. Accordingly I find that it would conform with the National Planning Policy Framework insofar as it seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

11. A number of additional concerns were raised by local residents. In terms of the condition of the road, although Fenton is narrow and parts of its surface appear to have deteriorated, from the evidence before me and my visit I am not persuaded that it would be inaccessible to construction related traffic. Also any further deterioration in the condition of the road, which I understand is not a public highway, would be a private matter and not for my deliberations in this appeal. Furthermore I am mindful that the Council has recently approved a similar scheme for an alternative development on this site, albeit for fewer dwellings, that could be implemented. The impact on the road from the

scheme subject to appeal is therefore unlikely to be significantly worse than what has already been allowed for.

12. The existing houses along Fenton are characterised by variation in their scale and detailed design. The hipped roof to the proposed semi-detached pair would, however, be in keeping with that of the adjacent properties at Nos 14 and 15. The gable fronted elevation to the detached unit would reference the forward projecting gables to the adjacent property at No 13 and other examples of this feature further along Fenton. The proposed buildings would be commensurate in height with adjacent properties and would incorporate a render finish and slate roof tiles in keeping with other existing dwellings, whilst respecting the gradual fall in ground level along the street.
13. I acknowledge that the front elevation of the proposed detached unit would be set forward in relation to what is a relatively common building line. However I concur with the Council's planning officer that the variation in the scale and design of the dwellings would tend to ensure that this would not be a readily discernible feature. Drawing the above considerations together I am satisfied that the proposed development would not therefore interrupt any strong sense of uniformity along the street scene.
14. Whilst I am aware that concerns have been expressed regarding the condition of drains serving the locality, I am not persuaded that the very small number of additional dwellings proposed would result in a material impact on drainage capacity.
15. In terms of concerns about discrepancies between drawings regarding the ridge height of the proposed dwellings, I am satisfied that this has been clarified by the appellant and that from the information before me and my visit, I have been able to understand the proposed scheme.
16. Objectors have referred to the existence of private covenants restricting development on the land. However such covenants are not a planning matter and do not preclude the grant of planning permission. Whilst reference has been made to previous assurances from third parties that the land would not be developed, no such certainty can be given about the permanent planning status of any land. An alleged boundary dispute would be a private matter between residents and would not have a bearing on the outcome of this appeal.
17. I note that some residents have expressed disappointment regarding a lack of direct engagement by the appellant with neighbours. However I am satisfied that residents have had the opportunity to express their representations and have not been prejudiced in this regard.

Conditions

18. I have considered the conditions suggested by the Council. Conditions specifying the plans, details of roofing materials and withdrawal of permitted development rights for extensions and alterations to the dwellings are needed to safeguard the character and appearance of the area. A condition restricting the occupation of the dwellings is needed to ensure that the additional units are occupied by persons with a defined local need. A condition to ensure the energy efficiency of the dwellings is needed in order to reduce carbon emissions. A construction method statement is required to protect the living conditions of local residents and in the interests of highway safety.

Conclusion

19. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1430_001; 1430_100 Revision A; 1430_101; 1430_102; 1430_401 Revision B; 1430_402 Revision B; 1430_403 Revision B (excluding the ridge heights denoted for the proposed dwellings); 1430_404 Revision B; 1430_405 Revision B; 1430_406 Revision B; 1430_407 Revision A; 1430_408 Revision A.
- 3) The dwellinghouses hereby permitted referred to as 'Property 2' and Property 3' on the approved plan (1430_403 Revision B) shall not be occupied otherwise than by a Person with a Local Connection as his or her Only or Principal Home, or by the widow or widower of such a person and any dependents of such a person living with him or her. The occupant will supply the local planning authority (within 14 days of the local planning authority's written request so to do) such information as the local planning authority may reasonably require in order to determine whether this condition is being observed.

In this condition the following definitions apply:

'Person with a Local Connection' means an individual who before taking up occupation of the dwelling satisfies one of the following conditions:-

- (1) The person has been in continuous employment in the Locality defined for at least the last 9 months and for a minimum of 16 hours per week immediately prior to occupation; or
- (2) The person needs to live in the Locality defined because they need substantial care from a relative who lives in the Locality defined, or because they need to provide substantial care to a relative who lives in the Locality defined. Substantial care means that identified as required by a medical doctor or relevant statutory support agency; or
- (3) The person has been continuously resident in the Locality defined for three years immediately prior to:
 - a) Needing another dwelling resulting from changes to their household, including circumstances such as getting married, divorced, having children or downsizing, or

- b) Undertaking full-time post-secondary education or skills training and is returning to the Locality defined within 12 months of its completion, or
 - c) being admitted to hospital, residential care or sentenced to prison, and are returning to the Locality defined within 12 months of their discharge/release, or
- (4) The person is a person who -
- a) Is serving in the regular forces or who has served in the regular forces within five years prior to occupation;
 - b) Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner where -
 - (i) The spouse or civil partner has served in the regular forces; and
 - (ii) Their death was attributable (wholly or partly) to that service; or
 - c) Is serving or has served in the reserve forces and who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to that service.

'Locality' means the administrative areas of the Parishes of: Above Derwent; Bassenthwaite; Bewaldeth and Snittlegarth; Blindbothel; Borrowdale; Buttermere and Brackenthwaite; Caldbeck; Embleton; Keswick; Lorton; St Johns, Castlerigg and Wythburn; Setmurthy; Threlkeld; Underskiddaw; Wythop; and those parts of the Parishes of Blindcrake; Ireby and Uldale; and Loweswater which lie within the administrative area of the Lake District National Park.

'Only or Principal Home' means a dwellinghouse which is occupied continuously for a minimum period of six months in every twelve month period.

- 4) The roof and those parts of the wall of the buildings hereby permitted shown as slate-hanging, shall be covered and maintained in local slates (that is slates which have been mined or quarried in Cumbria). Such slates shall be riven, not sawn, and shall be laid in diminishing courses from eaves to ridge.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no external alterations or extensions shall be carried out to the dwellinghouses, nor shall any building, enclosure, structure, domestic fuel oil container, pool or hardstanding be constructed within the curtilage of the dwellinghouses.
- 6) No development shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy

sources shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and thereafter retained in operation.

- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) the number, type and frequency of construction vehicles accessing the site.
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.