



Appeal Decision

Site visit made on 12 March 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2019

Appeal Ref: APP/H0928/W/18/3216684

Land at Brougham Avenue, Brougham, Penrith, CA10 2DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Moffitt against the decision of Eden District Council.
 - The application Ref: 18/0283, dated 10 April 2018, was refused by notice dated 7 June 2018.
 - The development proposed is a residential development for up to five local occupancy dwellings.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The development proposal was submitted in outline with all matters reserved for future approval. Although a drawing has been provided with the appeal which shows five dwellings on the site, as approval was not sought for layout or scale, I have treated this as indicative only.
3. Since the original planning application was determined, the Council has adopted the Eden District Local Plan 2014-2032 in October 2018 (the Local Plan). Policies LS1 and DEV5 referenced in the reasons for refusal are policies from that plan which were emerging at the time of the decision but are now adopted policies. Policy CS18 of the Eden District Council Core Strategy 2010 cited in the third reason for refusal on the decision notice has been superseded by the adoption of the Local Plan and is now no longer an extant policy.
4. I have determined the appeal on the basis of the above.

Main Issues

5. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for new residential development having regard to the development plan and access to shops, services, facilities and employment opportunities; and
 - The effect of the development on the character and appearance of the area.

Reasons

Whether the appeal site is a suitable location for new development

6. Policy LS1 of the Local Plan sets out the locational strategy for new development in the district. Within this Brougham is identified as a smaller village or hamlet. In addition to seeking to ensure a high standard of design, Policy LS1 expects new development in such settlements to be restricted to infill sites, rounding off, or the re-use of traditional rural buildings and structures. Local Plan Policy LS2 sets out housing targets and the distribution of new housing. This policy directs the majority of new housing to the towns in the district and identifies only a small requirement for new housing in the rural areas of the district, concentrated in those settlements classified as key hubs.
7. Policy LS2 does not identify a requirement for new residential development in the villages and hamlets, with the data in the policy indicating that previously a large number of housing permissions have been granted in these settlements, leading to the policy identifying a negative requirement in these settlements over the plan period.
8. Local Plan Policy HS2 recognises that there may be scope for development in the smaller villages and hamlets where it is of an appropriate scale, which reflects the built form of adjoining and neighbouring development to the site and the service function of the settlement. It also sets out three criteria against which development will be assessed. These are that the development is either infilling or rounding off; any dwellings are limited to 150m² gross internal floorspace; and on greenfield sites any new housing is restricted to local occupancy. The supporting text to the policy sets out that this policy seeks to encourage people to meet their own housing needs locally, particularly through self-build housing. The appeal proposal is described as dwellings for local occupancy and this could be secured by way of an appropriately worded planning condition.
9. The appeal site is currently part of a larger, undeveloped, field containing no buildings or structures and it is common ground that the proposal does not meet the criteria to be considered infilling, as defined in the Local Plan.
10. The Local Plan defines rounding off as development which provides a modest extension beyond the limit of the settlement to a logical, defensible, boundary. The settlement comprises the walled enclosure of Brougham Hall with a linear development along Brougham Avenue to the east and, to the south, a more recent development at Brougham Hall Gardens arranged around two culs-de-sac. The village contains approximately 34 dwellings.
11. Brougham Hall Gardens, due to the cul-de-sac layout, forms a relatively self-contained group. Brougham Avenue has a linear form, with 12 dwellings to the north side and 3 dwellings to the south side, where the appeal site is also located. In this context the development of the appeal site would effectively complete a two sided street on Brougham Avenue and, given the form of the settlement, could in a broader sense be described as rounding off.
12. This notwithstanding, Policy LS1 does not define what is meant by a modest extension. It is common ground that the appeal proposal would increase the number of dwellings by 14.7%. Whilst Policy LS1 states that within those rural settlements designated as key hubs, where some additional housing

requirement is identified by Policy LS2, an increase in size of the settlement of up to 10% may be acceptable, this 10% increase is not applicable to those designated as smaller villages and hamlets. Policy LS2 does not identify that there is a housing requirement in the smaller villages and hamlets, and within the context of the small size of the existing village, an increase of 14.7% would not represent a modest increase in size.

13. Policy LS1 requires rounding off to be an extension to the settlement to a logical, defensible boundary. The appeal site would result in the existing field being subdivided and an arbitrary new boundary formed. From what I saw when I visited the site, this boundary would not be logical, as it is drawn across an existing larger field and follows no natural or man-made features. Nor does it align with the current rear boundaries of the existing bungalows to the south of the road. In the absence of any details of the proposed scheme there is also no compelling evidence that this boundary would be defensible, or that the proposed development would not facilitate access to the remaining land to the south.
14. Additionally, Policy LS1 expects the scale of development to reflect the service function of the settlement. I saw when I visited the site that there are several small businesses located at Brougham Hall Charitable Trust. These were in the main small scale, specialist, enterprises and would not provide for the day to day needs of residents of either Brougham or other nearby settlements. The nature of the businesses is such that it could not be realistically argued that the development of further houses in the village would be justified in order to support them or that they would generate significant local employment that requires additional housing for employees.
15. In the light of the above, the proposal would be contrary to the relevant requirements of Local Plan Policy LS1.
16. I have had regard to the appellant's point that Brougham is a sustainable settlement. I saw on my site visit that there are very limited facilities in village in terms of providing for the day to day requirements of residents. There are bus stops at Eamont Bridge with regular services to Penrith, nevertheless these are located a significant distance from the appeal site and are accessed from the village via a narrow, unlit, road without footways linking Brougham to the A6. Whilst there are footways alongside the A6, this is also unlit and subject to a 60 mph speed limit. The distance to the bus stops and the nature of the roads would be a deterrent to walkers particularly during the winter months when daylight is restricted. I accept that Penrith could be accessed by cycle, although again the nature of the roads may act as a deterrent.
17. Whilst residents of the new dwellings would not necessarily be wholly dependent on private cars and there is some limited access to other modes of travel, this access to shops, services, other facilities, and employment opportunities is not so good that it would outweigh the conflict with the development plan policy or justify the scale of development proposed.
18. I therefore conclude that the appeal site is not a suitable location for new residential development having regard to the development plan and access to shops, services, facilities and employment opportunities. It would conflict with the relevant requirements of Policy LS1 of the Local Plan.

Character and appearance

19. Local Plan Policy DEV5 expects new development to be of a high quality design, which reflects local distinctiveness, and sets out various criteria against which new development will be assessed. These include, among other matters, that new development shows a clear understanding of the form and character of the district's built environment; reflects the existing street scene; and uses quality materials which complement or enhance local surroundings.
20. The layout, scale and appearance of the proposed development were reserved for future approval. The Council suggest that the 150m² internal floorspace limitation in Local Plan Policy HS2 would result in development of a scale incompatible with the existing character of the village because of the size of the resulting plots in relation to the allowable floorspace. No accurate floorspace sizes have been made available for the existing houses on Brougham Avenue, although it may well be that some of these are approximately 150m². When I visited the site, I saw that on Brougham Avenue there are dwellings of various sizes present that occupy differing proportions of their respective plots. As the detailed design and layout of the proposed dwellings is reserved for future approval, it is difficult to substantiate the Council's position on this point and I am satisfied that an appropriate design could be evolved at the reserved matters stage which would integrate the new development with the existing dwellings. Based on the evidence before me and what I saw when I visited the site, I can see no inherent conflict with local plan Policy DEV5.
21. I conclude that the proposed development would not cause harm to the character and appearance of the area and would comply with the relevant requirements of Policy DEV5 of the Local Plan.

Other matters

22. My attention has been drawn to a previous application for planning permission, which included the present appeal site within its boundary, and which was recommended for approval by officers. Whilst I have some details of this proposal, from these it was clear that at that time the Council could not demonstrate a deliverable five year supply of housing land. This proposal was also considered under the provisions of the Eden District Council Core Strategy 2010 and Saved Policies from the Eden Local Plan 1996. That application was refused planning permission and the Council's decision was not challenged at that time.
23. Since that decision was made the Council has adopted a new local plan and can now also demonstrate a deliverable five year housing land supply. These represent a material change in circumstances since the previous application was made and, consequently, I do not consider that the circumstances then are analogous to those now before me. I therefore cannot give any weight to this point.

Conclusion

24. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.

25. I have found that the appeal site would not be a suitable location for new residential development and does not comply with Local Plan Policy LS1. Whilst I have not found that the proposed development would cause harm to the character and appearance of the area this does not, of itself, outweigh the conflict with Policy LS1 and the Council's locational strategy.
26. It is not argued that the policies in the development plan that are most important to determining the appeal are out of date, or that the Council cannot demonstrate a deliverable five year housing land supply. The development plan has only recently been adopted and is therefore up to date. Additionally, no material considerations have been identified that would warrant making a decision other than in accordance with its provisions.
27. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR