



Appeal Decision

Site Visit made on 17 August 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 10th September 2021

Appeal Ref: APP/Q9495/W/21/3273551

1 Priory Mews, Priory Grange, Windermere, Cumbria LA23 1FG

- 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 Robinson against the decision of Lake District National Park Authority.
 - The application Ref 7/2020/5557, dated 9 September 2020, was refused by notice dated 23 October 2020.
 - The development proposed is erection of two bedroomed local occupancy dwelling (Resubmission 7/2018/5663).
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The emerging Lake District National Park Local Plan 2020-2035 (the LP) was adopted in May 2021. As such, it is the development plan for the purposes of the appeal. Policies of the Lake District National Park Core Strategy including Proposals Map Adopted October 2010 and the Saved Lake District Local Plan and Joint Structure Plan Policies Consolidated document Adopted November 2010, listed within the Council's reasons for refusal, have been superseded. Accordingly, I have made my assessment against the relevant policies of the LP, including Policies 1, 2, 4, 5, 6, 15 and 20. Both parties have had the opportunity to comment on the relevant policies through the appeal process.
3. The revised National Planning Policy Framework (the Framework) was published in July 2021. The parties have been provided with the opportunity to comment on the implications of the revisions to their cases. I have taken account of the revised Framework in my determination of the appeal.
4. The appeal site is in the centre of a tree group covered by Tree Preservation Order (TPO). The group originally comprised 43 broadleaved trees, conifers and shrubs. Consent was granted in 2014 and 2015¹ to fell 15 trees in total subject to conditions for replacement planting. The trees have been felled but not replaced. A Tree Replacement Notice was served in July 2018 and a subsequent appeal was dismissed with minor alterations to the tree species.
5. Planning permission² was refused in 1991 and 1992, the latter dismissed on appeal, for a dwelling on grounds relating to harm to the character and appearance of the area and the TPO woodland. Permission (ref 7/1996/5255)

¹ Refs T/2014/0133 and T/2015/0031

² Refs 7/91/5572 and 7/92/5239

was granted in 1996 for the use of the appeal site as garden land for 1 Priory Mews, subject to a condition removing permitted development rights. In 2019, permission was refused (ref 7/2018/5663) for a local occupancy dwelling on similar grounds to the previously refused applications.

Main Issue

6. The main issue is the effect of the proposal on the character and appearance of the area, with particular reference to the TPO tree group and woodland.

Reasons

7. The appeal site is a vegetated former quarry with a roughly 6m high rock face to the rear. It is accessed from and it has a long frontage to Priory Grange, which is a narrow residential road. It is in a residential area characterised by individual and groups of properties scattered through extensive mature woodland. It is in the settlement of Windermere, in the Lake District National Park and the English Lake District World Heritage Site (the WHS).
8. Irrespective that the tree population has been substantially reduced in recent years, the verdant appeal site forms part of the wider undeveloped woodland. The ground lacks dense understorey, but the mature trees contribute to the high woodland canopy. The naturally vegetating rock face to the rear of the site is a strong feature characteristic of the natural landscape beyond the settlement. Consequently, the appeal site makes a positive visual contribution to the strongly wooded character and appearance of the area.
9. The dwelling would be located at the end of the site furthest from the appeal property. It would be oriented with its principal elevation perpendicular to the road, facing towards the parking area. By virtue of its size and prominent open siting close to the road, the dwelling would be a conspicuous feature. There would be a significant visual impact from the encroachment of residential built form into the undeveloped woodland.
10. None of the 7 mature TPO group trees in the site would be within the footprint of the dwelling. Two trees are in poor condition and they are recommended for removal, but 5 trees are proposed to be retained. However, the footprint of development would be largely within the root protection areas (RPAs) and the canopies of 4 of the retained trees.
11. The retention of the protected trees would depend upon sensitive construction methods including fencing, ground protection and a cellular confinement system, pile construction foundations, the retention of ventilated air space between the building and the ground, and micro tunnelling of services. The arboricultural report notes the need for specialist engineers to inform the foundation construction and the load bearing capacity of the soil. The feasibility of the proposal does not appear to have been confirmed by an engineer.
12. It is not clear how the timber roof structures would be lifted into position nor how the pile foundations would be constructed without machinery. However, the steel framework would be installed using a crane. The reinforced concrete slab would be cast in situ using a concrete pump. Blocks would be carried to higher levels of scaffolding by a telehandler. Consequently, even if the dwelling could be constructed without vehicles and machinery on the ground within the TPO woodland, as suggested by the construction method statement, there would still be significant vehicular activity in the area. Taking into account the

- proximity of the dwelling, construction compound and protective fencing to the protected trees, it has not been demonstrated that adequate clearance could be maintained at all times or that facilitation pruning would not be required.
13. Thought would need to be given to the requirement for air and moisture to the roots covered by the building. The arboricultural report recommends a specialist irrigation system to direct roof run off under the building. However, given the shallow soils and bedrock and in the absence of further detail, it is not clear that the existing ground level nor soil moisture environment could be maintained. Moreover, it is not clear that this would in any case be an acceptable means of sustainable surface water drainage.
 14. Even if the RPAs and canopies could be protected during construction, and the existing ground conditions could be ensured, this would not guarantee the retention of the trees. The Lawson cypress close to the rear of the dwelling would overhang the roof and the rooflight serving the first floor bathroom. The ash to the front would overhang the roof and it would shade the first floor window and rooflight serving the study, the ground floor bedroom window and the 2 storey feature window serving the lounge. The tree canopies would significantly shade the outdoor space around the dwelling. Irrespective that the appellants do not intend to remove them, future occupiers would be likely to seek to fell or substantially prune the protected trees around the dwelling.
 15. A scheme of landscaping has been proposed to mitigate the effects of the proposal and to replace the trees subject of the Tree Replacement Notice. There would be non-native ornamental shrub planting, including to the frontage to enclose the site and screen the side elevation. In addition, 18 individual trees would be planted, the majority of which would be silver birch, with a smaller number of rowan and 1 each of cedar, Scots pine and larch.
 16. The planting of predominantly small trees and shrubs towards the boundaries would do little to integrate the building. With the exception of birch, the tree species do not appear to be in accordance with the requirement of the Tree Replacement Notice upheld on appeal. While the appellants would prefer small ornamental species, the planting would not compensate for the felled TPO trees. The proposal would not be conspicuous in distant views, but it would be prominent locally. It would permanently erode and it would not make a positive contribution to the TPO group or wider woodland landscape.
 17. My attention has been drawn to dwellings granted permission elsewhere in the area. The appellants have assessed those schemes and consider they result in greater adverse impacts than would the proposal. Full details of those schemes have not been provided. I cannot be certain that any of them is directly comparable to the appeal proposal. Irrespective of their impact, they do not provide a justification for the appeal which I have considered on its own merits.
 18. Therefore, the proposal would harm the character and appearance of the area, with particular regard to the TPO tree group and woodland. It would conflict with the LP, including Policies 1, 2, 4, 5, 6. These require, among other things, that development conserves the Lake District landscape, that it maintains and enhances local distinctiveness, character and landscape setting and sense of place, and contributes to resilient habitats and ecosystem function. It would conflict with the aims of the Framework in relation to development that adds to the overall quality of the area, being sympathetic to local character and

landscape setting, and that recognises the intrinsic character and beauty of the countryside and the important contribution made by trees and woodland.

Other Considerations

19. The appeal site is in a rural service centre, which is a suitable location for new residential development. The design and materials would be acceptable in the surrounding built context. A condition could be imposed to restrict occupancy of the dwelling to local persons. These are neutral factors.
20. Notwithstanding apparent site constraints, details of surface water drainage and separate arrangements for foul and surface water could be addressed by condition. A condition could be imposed to secure decentralised, renewable and low carbon energy generation. There would be an acceptable level of parking provision and the proposal would not harm the safe operation of the highway.
21. The proposal would be well separated from neighbouring dwellings such that there would be no overlooking or loss of privacy. I note the concerns of the occupier of the dwelling at the top of the rock face in relation to air pollution and odour from the chimney and toilet flue. However, there is little substantive evidence that the proposal would contribute to significant adverse effects in this regard. The absence of impacts in respect of matters including drainage, highways and living conditions of neighbouring residential occupiers are requirements of policy and they weigh neither for nor against the scheme.
22. The appeal site is part of the former grounds of Hammerbank, now the Windermere Manor Hotel. This is a mid to late 18th century villa with coach house and stables, constructed for one of the founding members of the Lakes Artists Society. It contributes to the Outstanding Universal Value of the WHS. The appeal site is separated from the villa and in a part of the grounds developed for housing. The proposal would not harm the significance of the WHS. This is a neutral factor.
23. I am aware of the appellants' personal circumstances, including medical conditions and mobility, and of their desire to live independently in a dwelling that meets their needs at ground floor level. However, while there is a shortage of single storey properties in the area, there is little evidence that there are no such dwellings available. Moreover, with its first floor master bedroom and study, the proposal would not be a single storey dwelling. There is little to suggest that alternative solutions, including alterations to the appeal property or dwellings elsewhere, have been explored and discounted. The personal circumstances are a matter that carries little weight in favour of the scheme.

Conclusion

24. For the above reasons, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
25. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR