

Appeal Decision

Site visit made on 20 August 2021

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th September 2021

Appeal Ref: APP/Q9495/W/20/3260698

Land adjacent to Burnbank Farm, Lindale LA11 6NA

- 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 Messrs H, L and B Robinson against the decision of Lake District National Park Authority.
 - The application Ref 7/2019/5662, dated 9 October 2019, was refused by notice dated 8 September 2020.
 - The development proposed is erection of a social housing/open market mixed scheme consisting of 12 houses in total, 4 of which shall be open market properties. Associated access and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application seeks outline planning permission with access to be determined at this stage. Appearance, landscaping, layout and scale are reserved matters to be considered in the future. I shall determine the appeal on this basis.
3. The revised National Planning Policy Framework (the Framework) was published in July 2021. The Lake District National Park Local Plan (LP) and Supplementary Planning Documents (SPD) on Housing, Landscape Character and Biodiversity were adopted on 19 May 2021. The main parties have had opportunity to comment on these documents, and I have taken submitted comments into account.

Main Issues

4. The main issues are whether or not the proposal would be in a suitable location, with regard to local and national policies for housing, and the effect of the proposal on the character and appearance of the surrounding area and the Lake District National Park (LDNP).

Reasons

5. The appeal site is an approximately rectangular area of land, located on the B5271 northern approach road to the settlement of Lindale, but separated from the settlement by a field. The B5271 slopes down towards Lindale, and the slope of the appeal site on its north-south axis largely follows that of the road. The east-west axis of the site rises steeply to the west. To the east, on the opposite side of the road, lies a small cluster of buildings associated with Burnbank Farm and an agricultural field, beyond which is the mature landscape screening of the A590 dual carriageway.

Location

6. Policies CS02 (achieving vibrant and sustainable communities), CS03 (settlement form) and CS18 (housing provision) of the LDNP Core Strategy (2010) are cited in the reason for refusal. These policies have been replaced by newly adopted policies 02 (spatial strategy) and 15 (housing). The application of the current policies to development in the open countryside is the same as the revoked policies, insofar as they relate to this proposal.
7. Policy 02 provides a spatial strategy setting out the level and type of development that is appropriate for different places. Given the separation of the site from the settlement, as assessed in detail below, I find that the appeal site is located within the open countryside, regardless of the agreed accessibility of the site to Lindale. Policy 02 only supports development in the open countryside where, amongst other things, there is an essential need for a rural location. Policy 15 allows for rural exception sites for affordable housing where evidence of local need is demonstrated.
8. The Council acknowledge that there is immense pressure on existing housing stock in the LDNP and, consequently, a significant need for housing. However, the LP indicates that the LDNP is not suitable for unrestricted housing. Instead, new housing will be focused on meeting affordable housing requirements and supporting the local economy and key services in line with the English National Parks and the Broads Circular (2010). To this end, the LP requires a minimum of 1,200 new permanent homes to 2035 to meet local community need.
9. It is not disputed that there is a need for affordable housing in the locality. Indeed, within the Central and South East area, only 51 affordable housing permissions have been granted over the period from 2015 to 2020 against a target of at least 66 units, with just 1 unit granted in 2019/20 against an annual target of 13. The 2017 Strategic Housing Market Assessment indicates a higher need of 26 affordable units per year for the relevant sub-market area, however that area also includes larger settlements outside of the LDNP. Whilst the Cumbria Choice Based Lettings system only indicates that there were three applicants for housing in Lindale, this is likely to be a reflection of low existing supply. At a wider level, delivery across the LDNP as a whole is also behind targets, with 103 permissions delivered against a requirement of 150. Taken together, these figures clearly demonstrate a need for affordable housing.
10. The proposal is for eight affordable housing units, as well as for four open market properties which the appellant accepts would be restricted to those who meet local occupancy criteria only. Whilst paragraph 3.10 of the Housing SPD states that on rural exception sites 100 per cent on-site local affordable housing provision is expected, the Council accepts in its appeal statement that some proportion of affordable housing is required to make the site viable. Furthermore, paragraph 78 of the Framework indicates that consideration should be given to allowing market housing to facilitate such sites.
11. The Council's concerns turn on the proportion of affordable housing provided. Specifically, that the proposal offers just one unit more affordable housing than the standard requirement for allocated and windfall sites, that is, five local occupancy dwellings with the remaining units to be affordable, as set out in policy 15. In response, the appellant has submitted a preliminary viability letter from Castles and Coasts Housing Association (HA), who had conducted initial feasibility into its acquisition of the site. This indicates that there are a number

of factors that will impact upon build cost, including the sloping topography, risk of large areas of rock underground, lack of footpath linking the site to the settlement, and a high voltage power line crossing the site.

12. The letter concludes that the long-term income that will be received from the retained units relative to the costs of the development and any sales income generated from it indicates a Net Present Value (NPV) of £6,500 per unit. Whilst this falls below the usual benchmark NPV of £10,000 applied by the HA, this could be accepted by the HA given the benefit of provision of affordable housing in the LDNP. This viability letter clearly only provides a very high-level assessment, and no further detailed analysis has been provided. Even so, the Council has not provided any evidence to dispute these findings.
13. I therefore see no reason to disagree with the appellant's conclusion that the proposed ratio of affordable to local occupancy housing is necessary to deliver the scheme as a rural exception site. Accordingly, the proposal complies with policy 15 and the Framework. However, there is not sufficient evidence to persuade me that the proposal achieves the very high bar of meeting essential need for a rural location required by policy 02, as suggested by the appellant. Overall, the proposal would be in a suitable location, with regard to local and national policies for housing.

Character and appearance

14. The above-described features of the site and surrounding area create an intimate, enclosed and verdant character to the northern approach to Lindale. Distinctive characteristics of the surrounding area include low-level rolling farmland covered by a dense network of lanes and strong field patterns of walls and hedges, notwithstanding any disturbed sense of tranquillity due to the traffic noise of the A590¹. The effect of the proposal would be to introduce a new residential development separate from the settlement and prominently sited in the existing intimate landscape.
15. The field that separates the site from the northern extents of Lindale is located on a corner of the B5271. That field is in the direct forward view of road users when leaving the village and is centrally framed by the built forms of The Royal Oak and the dwelling opposite. As seen from here, the separation between the village and the proposed built forms would be particularly evident. Similarly, when approaching the village from the north, the field would be almost central to the view, again emphasising the separation effect. Although the field is relatively small, the proposal would nonetheless appear unrelated to, and disjointed from, the built forms of the settlement, even though more distant views of the site would be largely limited by the enclosing topography and landscaping of the surrounding area.
16. The appeal site sits on the opposite side of the road to the cluster of Burnbank Farm buildings. However, these are in themselves separate and distinct from the settlement. Furthermore, the cluster is of agricultural character such that it relates more to the adjacent open countryside than to the settlement. Whilst the route of the A590 runs close to Lindale, any disturbance to tranquillity at the appeal site is considerably mitigated by the intervening landscaping. I find

¹ As identified in Area 66 Field Broughton Area of Distinctive Character (ADC) of the LDNP Landscape Character Assessment and Guidelines (2021)

that the site is more influenced by the rural characteristic of the open countryside that surrounds it than by the dual carriageway.

17. Although the proposal is in outline only, with access applied for, it remains necessary to assess its effects. The footprint of the development, with access road and infrastructure to serve 12 dwellings would occupy a considerable proportion of this sloping appeal site, even if the dwellings were modestly sized. Additionally, the point of access would require considerable excavations of the existing slope, as would the access road which would need to be of a suitably low gradient to serve all units. When these points are taken together, the overall site excavations would be very significant indeed. In my view, the likely extent of such ground works would have substantial adverse impacts upon the local landscape. Furthermore, given the extensive ground works required, it is likely that any new or replacement landscaping would have no more than a limited mitigating effect.
18. My conclusions on this matter are reinforced by the illustrative layout and retaining structures. The indicative drawings show that, in order to gain the proposed gradient of access road from the B5271, excavation of the site would be up to some 13 metres. This would be as deep as the ridge line of the indicative two storey dwelling. The steep regrading of the slope proposed along the northern and western boundaries would have a markedly unnatural and carved-out appearance. This effect would be in stark contrast to the rolling landscape surrounding the site.
19. The retaining wall proposed alongside the road would also be an inappropriate structure in the landscape, particularly with proposed levels at the north of the site being some 4 to 5 metres lower than the adjacent road. At the south west corner of the site, proposed levels would be some 6.7 metres below the existing ground level. As a whole, these represent very significant interventions into the landscape. Although lowering of ground levels may reduce the prominence of the dwellings, the indicative retaining walls and unnatural slopes would in themselves be seen as prominent features from both outside and within the site. These tall vertical surfaces, with a 1.2 metre pedestrian barrier on top, would appear incongruous against the intimate scale of the existing rolling landscape.
20. Whilst some exposed rock faces are evident in some locations within the settlement itself, I have not been referred to any other retaining walls of such height as proposed. The indicative stone facing would not adequately mitigate this discordant effect. The proposed tree planting immediately alongside the retaining wall is unlikely to thrive or be effective in such constrained conditions.
21. I give great weight to conserving and enhancing the landscape and scenic beauty of the LDNP and conclude that, overall, the proposed development would have a substantial adverse effect on the character and appearance of the surrounding area and the LDNP. The proposal conflicts with policies 01, 05, and 06 of the LP and the Framework. These policies seek to conserve and enhance the extraordinary beauty and harmony of the LDNP landscape, and require development to be of design and scale appropriate to the location. The approach of these current policies is not materially different to the revoked policies listed in the decision notice, in respect of this main issue.

Other matters

22. A draft planning obligation has been submitted. This contains provisions relating to delivery, size and tenure of affordable housing units. However, it is only a draft template. It has not been fully completed, and it is not signed or dated. The appellant subsequently suggested wording for a planning condition to secure future arrangements for the provision of the affordable housing. Whether or not the specific wording proposed would be fully effective in securing that provision, for the purpose of the planning balance I give significant weight to the provision of affordable housing. Finally, economic benefits would accrue from the proposal, both directly and indirectly, although such benefits would be largely temporary.

Conclusion

23. The proposal would cause a substantial level of harm to the character and appearance of the local landscape and the LDNP. This harm is not outweighed by the suitability of the location for rural exception development, the contribution to delivery of affordable and local occupancy housing, and economic benefits, even when taken together. The proposal conflicts with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

Patrick Hanna

INSPECTOR