



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: 22nd September 2021

Appeal Ref: APP/Q9495/W/21/3273474

Land to the East of Ambleside Road, Keldwyth Drive, Troutbeck Bridge, Windermere LA23 1NJ

- 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 David Smith against the decision of Lake District National Park Authority.
 - The application Ref 7/2020/5255, dated 29 April 2020, was refused by notice dated 20 October 2020.
 - The development proposed is Proposed New Build Two-Storey Local Occupancy Residential Dwelling.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of the development from the decision notice and the appeal form in the banner heading above, in the interests of clarity.
3. The emerging Lake District National Park Local Plan 2020-2035 (the LP) was adopted in May 2021 and it is the development plan for the appeal. Consequently, Policies CS01, CS03, CS11, CS25 and CS26 of the Lake District National Park Core Strategy including Proposals Map Adopted October 2010 and Policy NE12 of 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Plan Policies Consolidated document Adopted November 2010, listed within the Council's reasons for refusal, have been superseded.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 and 15. Both parties have had the opportunity to comment on the relevant policies as part of the appeal process.
4. 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, and any comments made, in my determination of the appeal.
5. Additional information, in the form of an Arboricultural Method Statement and Indicative Surface Water Drainage Plan (ref 8031/DR/01), have been submitted with the appeal. The Council has been given the opportunity to comment on this in the appeal process, although it has not done so. Nevertheless, I have had regard to it insofar as it relates to impacts on trees and woodland.

Main Issue

6. The main issue is whether or not the proposal would conserve and enhance the landscape, scenic beauty and wildlife of the Lake District National Park.

Reasons

7. The appeal site is part of an area of woodland on a hillside between the A591 and the A592 to the east of Lake Windermere. It is accessed from Keldwyth Drive which is an unadopted road and it extends along the rears of dwellings on Keldwyth Park. It is bounded to the north by woodland and to the east by Keldwyth, a substantial detached dwelling in large wooded grounds. It is in the Lake District National Park and the English Lake District World Heritage Site.
8. Troutbeck Bridge is a village where new residential development is acceptable in principle. The proposal would be a substantial detached dwelling with an integral garage. A 2 storey central section with a shallow pitched roof would be flanked to either side by single storey flat roof extensions with first floor roof terraces. It would be extensive glazed with mirrored windows and it would be finished in green zinc cladding with a dark grey zinc roof. The Council considers the contemporary design of the dwelling would be acceptable due to the restricted public views and tree screening, and the presence of bespoke contemporary dwellings nearby. I see no reason to disagree.
9. Patches of mature woodland are characteristic landscape features of the Upper Windermere Area of Distinctive Character¹, which encompasses the northern half of Lake Windermere to the south of Ambleside. Moreover, woodlands are acknowledged to be one of the Lake District's most valuable scenic and wildlife assets. In this regard, the woodland that includes the appeal site makes a positive contribution to the local distinctiveness of the landscape and to recognisable sense of place.
10. A large number of trees would be felled to facilitate the proposal. Neighbouring trees in the grounds of Keldwyth, covered by Tree Protection Order, overhang the narrow internal access and they would be crown lifted to a height of 4m. Several further trees would be felled in the woodland to the north to facilitate the drainage of surface water. The majority of these trees are of low quality or otherwise unsuitable for retention as part of a residential scheme. Nonetheless, there would be a significant cumulative loss of trees, tree canopies and woodland. There would be an urbanising impact from the introduction of the dwelling, hardstanding, car parking and domestic paraphernalia. Irrespective that it would not be highly visible from distant viewpoints, the proposal would encroach into previously undeveloped wooded countryside.
11. In addition to scattered semi-mature and mature broad-leaved trees and woodland, the appeal site supports relatively species-poor semi-improved neutral grassland, domestic trees and shrubs. There are no habitats of principal importance for the conservation of biodiversity and the site does not support populations of protected or priority species. Nevertheless, these naturally developing habitats at the woodland edge are of local biodiversity value.
12. The proposal would not result in the direct loss of woodland or habitat of significantly high cultural, aesthetic or biodiversity value. However, it would be detrimental to and it would erode the valued woodland landscape and

¹ Lake District National Park Landscape Character Assessment and Guidelines revised Adopted April 2021

- biodiversity of the Lake District. The residential development and associated activity would reduce habitat and landscape connectivity, including through the introduction of inhospitable habitats and hazards to wildlife. There would be adverse edge effects in the adjoining woodland from light pollution, noise and recreational disturbance, and disturbance and predation by domestic animals.
13. The landscaping proposals include replacement tree planting and hedgerows. The regimented linear arrangement of garden trees and boundary hedges would be visually distinct from the more natural wider woodland. The proposal would not make a positive contribution to the locally distinctive woodland landscape. Moreover, while the proposal might compensate quantitatively for the loss of trees, there is little compelling evidence that it would compensate qualitatively for the loss of the establishing woodland and habitats.
 14. Retained and proposed trees would be close to the dwelling and neighbouring dwellings. There would be little space for hedgerow or tree canopy spread between the driveway and Nos 1-2 Keldwyth Park. Future and neighbouring occupiers would be likely to prune back or remove the hedge and hedgerow trees to prevent encroachment, overhanging and shading including to the rear of dwellings. Future occupiers would be likely to remove or substantially prune trees close to the dwelling due to perceived hazards, shading and leaf fall. There is little certainty that the tree population would be maintained or that the planting would be managed to maximise biodiversity value. I am not in any case persuaded that it would be reasonable to expect future occupiers to manage their garden in order to offset the adverse impact of the proposal.
 15. The appellant has offered to manage a neighbouring woodland area to the north. This is described as relatively young woodland with limited age and structural diversity, possible Chalara die-back of ash, and low levels of naturalness. On this basis, it would benefit from sympathetic management. It is suggested that a condition be imposed to secure a woodland management plan (WMP) in perpetuity. The Council agrees that if a scheme of woodland management would pass the tests for conditions, then a condition could be imposed securing the WMP prior to the occupation of the dwelling.
 16. Taking into account that the impact of the proposal would not be adequately mitigated by garden planting, the compensatory enhancement of woodland elsewhere would be necessary, relevant to planning and to the development to be permitted. However, no details of woodland management have been provided, including operations, timescales or costings. It has not been demonstrated that the WMP would compensate for the impact of the proposal, let alone result in a planning gain.
 17. A condition simply requiring a WMP would be vague and it would not be precise. The Planning Practice Guidance advises that conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness. In the absence of even an outline WMP with costings, I cannot be certain that the imposition of a condition in this regard would be reasonable. No form of condition wording has been suggested nor has it been demonstrated that a condition would be the appropriate mechanism to secure offsite compensation. Consequently, I am not satisfied this matter could be satisfactorily dealt with by condition. It does not weigh in favour of the scheme.
 18. Therefore, the proposal would harm and it would not conserve and enhance the landscape, scenic beauty and wildlife of the Lake District National Park. It

would conflict with LP Policies 1, 2, 4, 5 and 6. These require, among other things, that proposals contribute to local character and distinctiveness, sense of place and landscape setting, and that they compensate for harmful effects on biodiversity and ecosystems. It would conflict with policies in the Framework, including those relating to protecting valued landscapes and the great weight afforded to landscape, scenic beauty and wildlife in National Parks.

Other Considerations

19. There have been several previous refused applications, most recently in 2019 (ref 7/2019/5556) for a similar scheme. The proposal has been amended to overcome the reason for refusal relating to surface water management. The proposal would not harm the safe operation of the highway. Avoidance of impacts on protected and priority species, replacement bat roosting and bird nesting opportunities, landscaping proposals and a scheme of tree protection during construction could be secured by condition. Compliance with the development plan in respect of these, or other matters, carries neutral weight.
20. Energy efficiency technologies would be incorporated, such as air source heat pumps and heat recovery systems and rainwater harvesting. Such measures would contribute to climate change adaptation, but there is little to suggest the development would be particularly innovative or that it would go beyond the requirements of the development plan in this regard.
21. The application was not refused on grounds relating to impacts on neighbouring residential occupiers. However, the neighbours are concerned by the elevation of the proposal above their properties, some of which are set back in their plots close to the shared boundary. The neighbours would be aware of the residential activity including the comings and goings of vehicles, although this would be mitigated to a degree by the boundary fencing and, in time, the hedge.
22. By virtue of its separation and orientation, the proposal would not result in close or direct overlooking between neighbouring habitable room windows. However, the elevated roof terrace would allow for overlooking towards the neighbours and its unrestricted use would result in greater noise and disturbance than would similar activity at ground level. The neighbours, who currently enjoy significant privacy to the rear of their properties, would perceive this as a loss of residential amenity. However, as I am dismissing the appeal for other reasons there is no need for me to consider it further.

Conclusion

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

Sarah Manchester

INSPECTOR