



Appeal Decision

Site visit made on 31 January 2022

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/Q9495/W/21/3274700

Land to North of 16 Rayrigg Rise, Windermere LA23 3DR

- 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 M Cooper against the decision of Lake District National Park Authority.
 - The application Ref 7/2020/5794, dated 2 November 2020, was refused by notice dated 2 February 2021.
 - The development proposed is described as 'construction of 2 storey, 3-bedroom house to meet local housing need. Resubmission of 7/2020/5478'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Lake District National Park Local Plan 2020-2035 (the LP) was adopted in May 2021. Policies of the Lake District National Park Core Strategy (Local Plan Part One) 2010 and the Saved Lake District Local Plan 1998, listed within the Council's reasons for refusal, have been superseded. Accordingly, I have made my assessment against the relevant policies of the LP. Both parties have had the opportunity to comment on the relevant policies through the appeal process. The main parties were also given the opportunity to comment on the relevance to the appeal of the revised National Planning Policy Framework (the Framework), published in July 2021, and I have had regard to any comments received and the revised Framework in my decision.

Main Issues

3. The main issues are the effect of the development proposed on the character and appearance of the area, and on a Local Green Space.

Reasons

Character and Appearance

4. The appeal site relates to land at Rayrigg Rise, a cul-de-sac serving 16 dwellings, which is situated within the settlement of Bowness, in the Lake District National Park and the English Lake District World Heritage Site. The site is located directly to the north of 16 Rayrigg Rise and comprises a grass verge together with an overgrown area of open land designated in the LP as an Amenity Local Green Space (LGS). A mature evergreen hedge set back into the site divides the grass verge from the open land, which rises steeply to the east from road level.

5. The surrounding area is predominantly of residential character with some variation in the size and design of dwellings. Notably, there are no other properties on the eastern side of this stretch of Rayrigg Rise, aside from No 16, which is situated at the very end of the cul-de-sac. Properties on Rayrigg Rise are generally detached bungalows situated on generously sized plots and are set back from the road with driveways and planting in front gardens which adds some greenery. These characteristics, together with the green open space to the east, results in a spacious and verdant character. It is uncontroversial to say that open and natural spaces are important to the National Park, one of the statutory purposes of which includes 'conserving and enhancing' natural beauty.
6. The appeal proposal is a two storey detached dwelling which would be sited on part of the grass verge adjacent to the road on a roughly north-south axis. The curtilage of the dwelling would incorporate the open land to the east.
7. The dwelling would be narrow in plan form and present what would appear as a side gable elevation with small windows towards the access road, with the front entrance located in the north facing elevation. Thus it would lack articulation and be in marked contrast to the existing neighbouring properties which generally address the road.
8. Due to its positioning adjacent to the road, the proposal would be awkwardly sited in a prominent position in the street scene, forming an unexpected and incongruous feature. There would be very little space to the front of the dwelling, which would be at odds with the prevailing character of properties being set back from the road with landscaped front gardens.
9. Moreover, the proximity of the proposed dwelling to the front and side boundaries of the site means that it would appear as a cramped form of development in contrast to neighbouring properties which are well proportioned in relation to their plots. This would undermine the pattern of development on this part of Rayrigg Rise and would erode its spacious character. It is unlikely that the development could incorporate adequate landscaping to the site frontage to reflect its surroundings.
10. The proposed siting and design of the proposal would thus fail to harmonise with the carefully planned layout of Rayrigg Rise. Although the site is unkempt at present, I cannot agree with the appellant that the proposal would enhance the local area.
11. For the above reasons, I conclude that the proposal would be significantly harmful to the character and appearance of the area. That would be in conflict with Policies 1, 2 and 6 of the LP, which, amongst other things, seek to ensure that development maintains and enhances local distinctiveness, character and landscape setting and sense of place. The proposal would also be contrary to the aims of the Framework which seek to ensure that development adds to the overall quality of the area and be sympathetic to local character and landscape setting.

Local Green Space

12. Paragraph 102 of the Framework explains that LGS designation should only be used where the green space is, amongst other things, demonstrably special to a local community and hold a particular local significance, for example because

of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife. The LGS was reallocated in the recently adopted LP, there being no difference other than terminologically between 'Amenity Local Green Space' in the development plan and 'Local Green Space' in the Framework. Plans must be consistent with national policy and therefore the LGS designation will have had to have been justified through the LP examination process. It is not the purpose of an appeal to revisit that process.

13. Policy 23 (Community facilities and Local Green Space) of the LP only permits the loss of a LGS designation in special circumstances: where it can be demonstrated that the green space is no longer needed, or a suitably located replacement of at least equivalent standard is secured.
14. At the time of my site visit I observed that the part of the appeal site within the LGS was fenced off from the larger area of open space to the north and it therefore appeared to be inaccessible. There is no information before me on the status of that, notwithstanding that a space does not have to be publicly accessible to qualify as a LGS within the ambit of the Framework. It was also largely screened from views from the road by a mature evergreen hedge growing along the western boundary. However, as part of a larger area of green open space, the site acts as a transition between the residential area around Rayrigg Rise and the countryside to the north. It contributes positively to the landscape setting of Rayrigg Rise and the visual amenity of the area more generally.
15. Although the proposed dwelling would be located just outside the boundary of the LGS, that part of the site to the rear of the dwelling would be within the LGS and this area would be enclosed as a private garden. The proposal would effectively sever the appeal site from the larger area of open space to the north, which would result in the loss of part of the LGS. While I accept that the part of the site beyond the grass verge site is inaccessible, the siting of a new dwelling immediately alongside the LGS, combined with its permanent enclosure to provide a garden, would be harmful to the openness and general amenity of the LGS.
16. There is no substantive evidence before me to demonstrate that this part of the LGS is no longer needed or valued by local residents. That the LGS is of some amenity value to the local community is evidenced by the objections from neighbouring residents. Furthermore, the scheme does not propose equivalent or better quality provision elsewhere.
17. The appellant argues that the development would open up the land to public view and thereby enhance the LGS. However, I have found that the proposal would be harmful to the visual amenity of the LGS and the character and appearance of the area more generally. Furthermore, there is no evidence to suggest that the management of the site, including the pruning of the mature evergreen hedge, is dependent on development taking place on the land.
18. For the above reasons, I conclude that the proposed development would result in the loss of part of a designated LGS. It would therefore be in conflict with Policy 23 of the LP, which seeks to protect such places.

Other Matters

19. The appeal proposal is a resubmission of a previously refused application. The current proposal has been amended in an attempt to overcome two previous reasons for refusal relating to the effect of the proposal on the living conditions of neighbouring occupiers and surface water flood risk. Compliance with the development plan in respect of these, or other matters, carries neutral weight. I note the range of other concerns raised by interested parties. However, as I am dismissing the appeal for other reasons there is no need for me to consider these matters further.

Conclusion

20. The proposed development would offer potential benefits in terms of providing what is stated to be a new local occupancy dwelling, notwithstanding the absence of a deed to that effect. The scheme would also have economic benefits through employment opportunities created during the construction phase of the development, Council tax revenue and spending in the local area by future occupants. However, the weight attributable to these matters is limited given the modest scale of the development proposed and would be outweighed by my findings as to the harm which would be caused.
21. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

M Ollerenshaw

INSPECTOR