



Appeal Decisions

Site visit made on 14 March 2022

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2022

Appeal A

Appeal Ref: APP/H0928/W/21/3285289

Land southeast of Sawmill Cottage, Penruddock CA11 ORD

- 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 and Mrs T Cockburn against the decision of Eden District Council.
 - The application Ref 21/0159, dated 22 February 2021, was refused by notice dated 26 April 2021.
 - The development proposed is erection of a dwelling including associated operations.
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Appeal B

Appeal Ref: APP/Q9495/W/21/3285290

Land southeast of Sawmill Cottage, Penruddock CA11 ORD

- 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 and Mrs T Cockburn against the decision of Lake District National Park Authority.
 - The application Ref 7/2021/3032, dated 22 February 2021, was refused by notice dated 29 April 2021.
 - The development proposed is erection of a dwelling including associated operations.
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Decisions

1. **Appeal A** is dismissed.
2. **Appeal B** is dismissed.

Procedural Matters

3. The appeal site is mainly situated within Eden District Local Planning Authority area; however, a small part of the site which includes the southern visibility splay is within the Lake District National Park Authority (LDNPA) area. Appeal A relates to the application submitted to Eden District Council for consideration, whilst Appeal B relates to the application considered by the LDNPA.

Main Issues

4. The main issue in the case of **Appeal A** is the effect of the proposal on the character and appearance of the area.
5. The main issue in the case of **Appeal B** is the effect of the proposal on the character and appearance of the Lake District National Park and UNESCO World Heritage Site.

Reasons

Appeal A

6. The appeal site consists of a railway embankment which is part of the former Penrith to Keswick railway, situated on the east side of the U3144 Penruddock to Motherby Road.
7. Policy LS1 'Locational Strategy' of the Eden Local Plan (2014-2032) (Local Plan) states that development should be focused in the most sustainable locations, including the main town of Penrith, market towns and key hubs. Development of an appropriate scale would be permitted in the smaller villages and hamlets (part 4). Outside of these settlements in 'other rural areas', development will be restricted to the re-use of traditional buildings, the provision of affordable housing as an exception to policy only or where proposals accord with other policies in the Plan. Some market housing may be acceptable in accordance with the criteria in Policy HS1. To qualify as rural exceptions housing, a site must be in a location considered suitable for the development of affordable housing.
8. The part of the appeal site within Eden District is not identified as a named settlement under Policy LS1 and would, therefore, normally be considered as within 'other rural areas' under the terms of the policy. However, the Council consider that had the whole of Penruddock been within Eden District, the village would be considered as a 'Smaller Village and Hamlet' as defined under Policy LS1. Within smaller villages and hamlets development is limited to infill sites or 'rounding off' of a settlement. Policy HS2 of the Local Plan further restricts development within smaller villages and hamlets to housing with a gross internal floorspace of 150m². The Council has determined the application on this basis. However, the site is not situated within a settlement identified as a smaller village or hamlet and so there is no policy basis for this approach. The appeal site must, therefore, be considered as an 'other rural area' within Policy LS1. The proposal does not involve the re-use of a traditional building or affordable housing. Consequently, the proposal would be contrary to Policy LS1.
9. The proposal is located close to the village of Penruddock which is designated as a 'village' in Policy 02 'Spatial Strategy' of the Lake District National Park Core Strategy (CS). The village comprises around 85 dwellings and has some services including a school, pub and village hall. Development in villages is required to relate well to the form of the settlement and protect, maintain or enhance local distinctiveness.
10. Penruddock is a linear village focussed on the main road through the village with another spur along the U3144 Penruddock to Motherby road. Groups of dwellings are separated by green space and agricultural fields. The village is situated within a rural setting surrounded by open countryside with agricultural fields, hedgerows, stone walls and trees.
11. The appeal site is under 0.1ha which includes the former railway embankment with two strips of land on either side of the access to allow for visibility splays. As acknowledged at paragraph 2.2 of the introduction to the Heritage, Design and Access and Planning Statements the site has primarily been left to nature. It was clear on my site visit that the embankment had grassed over with evidence of trees and small shrubs having been removed.
12. The site is bound to the north, south and east by open countryside, and to the west by the U3144 Penruddock to Motherby highway. Most of the development

associated with the village lies on the west side of this road whilst the eastern side is characterised mainly by open agricultural land. The nearest development on the eastern side of the road to the north is Penruddock Hall which is some 100m away and is set well back from the road. To the south, All Saints Church is the nearest development on the eastern side of the road, apart from some greenhouses.

13. The appeal dwelling would be built into the railway embankment with covered parking and a garage/workshop situated behind the dwelling. The front elevation facing the road would have a projecting double height glazed feature with aluminium frames with some stone elements at the side. The front section of the proposal would have a flat roof with the remainder being covered with mesh, soil, stone and planting. External materials would include local sandstone walls, limited timber cladding a large-glazed section and aluminium windows and doors. Window openings would be restricted to the south and west facing elevations.
14. The southern edge of the driveway would be flanked by a stone wall which would be backfilled with soil and vegetation which would partially conceal the driveway and the lower sections of the proposed windows. Whilst the proposal to build the dwelling into the embankment is an interesting design concept, the appeal site is, nevertheless, detached from the existing built form of the village and the proposed dwelling would appear as an incongruous addition.
15. As the contextual elevations show, the glazed front section and upper sections of the proposed windows would be visible in views from the west and south. The glazed front elevation would also be highly visible to pedestrians and road users. The extent of glazing together with levelling of the embankment to create a garden to the front would result in an urbanising effect detracting from the distinctly rural character of the eastern side of the road. Whilst the extent of glazing could be reduced there is no assessment before me with regards to the effect of this on the light available to the proposed dwelling. Furthermore, this would not overcome my concern regarding the location of the proposal.
16. The remaining embankments are a prominent feature and an integral element of the landscape and history of the area. The removal of land to the front of the embankment and development along one side of it would undermine the historical integrity of this landscape feature. Whilst hard and soft landscaping could be secured by condition, this would do little to overcome the loss of part of this feature and the urbanising effect of the proposal. Overall, I consider that the proposal would not relate well to the settlement of Penruddock and would be at odds with the rural character and appearance of the eastern side of the road.
17. I acknowledge the proximity of the appeal site to Penruddock; however, even were I to consider the proposal against part 4 of Policy LS1 of the Local Plan, or Policy 02 of the CS, due to the detached nature of the appeal site from the village and the open nature of the east side of the road, the proposal cannot be considered as infill development or rounding of the village. Nor would the proposal reflect the built form of the settlement. The second reason for refusal relates to the size of the dwelling which, based on the Council's calculations, would exceed the size threshold set out in Policy HS2. However, as I do not consider that Policy HS2 applies in this case this has not been a determinative factor in my decision.

18. The appellant contends that Penruddock would be considered as a 'Key Hub'; under Policy LS1; however, the settlement clearly does not have the range of services and facilities that would be expected of a key hub.
19. Attention is drawn to an outline planning permission (18/0689) for two dwellings on the opposite of the U3144 opposite the appeal site. However, this case is situated on a small field between the railway embankment and Sawmill Cottage and, therefore, relates well to the built development on the western side of the road. Consequently, this case is not directly comparable to the appeal proposal which limits the weight which I can attach to it in my Decision.
20. For the reasons stated, the proposal would harm the character and appearance of the area and would, therefore, be contrary to Policy LS1 of the Local Plan. Furthermore, the proposal would be contrary to Dev5 of the Local Plan which seeks to ensure, amongst other things, that development shows a clear understanding of the district's built and natural environment, complementing and enhancing the existing area.

Appeal B

21. The southern visibility splay which would serve the development is situated within the LDNP. The two purposes of the National Parks, as revised in the Environment Act 1995 (the Act), are to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks and to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public.
22. The Penruddock to Motherby Road is a narrow lane edged by grass verges, stone walls and hedgerows in places. To the eastern side of the road are open fields defined by stone walls, hedgerows and intermittent trees. These features contribute to the distinctive, rural character of the LDNP.
23. The works to create the southern visibility splay would involve reducing the roadside wall in height, reducing the ground level within the field and the roadside hedge would be moved back around 2m. The works would disrupt the characteristic pattern of the roadside verge and detract from the rural character of the road. Furthermore, the glazing of the southern elevation of the proposal would be visible from within the LDNP. Overall, the proposal would detract from the landscape character of the LDNP. Consequently, the proposal would conflict with the first purpose of the LDNP.
24. Moreover, by virtue of the disruption to the characteristic pattern of the roadside verge, the proposal would harm the distinctive cultural landscape of the UNESCO World Heritage Site. Paragraph 202 of the National Planning Policy Framework (the Framework) requires less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of a proposal. Whilst the harm would be less than substantial, the limited public benefits of the proposal in terms of the very small contribution to housing land supply would not outweigh the harm which I have identified.
25. For the reasons stated, the proposal would conflict with Policies CS01, CS02, CS10, CS11 and CS25 of the CS (2010) which collectively, amongst other things, seek to ensure that development relates well to the form of settlements, reinforce local character and distinctiveness, protect the landscape and conserve and enhance the special qualities of the LDNP.

26. Furthermore, the proposal also conflicts with paragraph 176 of the Framework which requires great weight to be given to conserving and enhancing landscape, scenic beauty and cultural heritage in National Parks.

Other matters

27. Paragraph 12 of the Framework states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. I have concluded that the proposal would conflict with the development plan. Furthermore, there is no evidence before me to suggest that the Council cannot demonstrate a five-year supply of deliverable housing sites. Consequently, paragraph 11d of the Framework is not engaged. Moreover, there are no material considerations which indicate a decision other than in accordance with the development plan.

Conclusion

28. For the reasons stated, Appeal A and Appeal B are dismissed.

Caroline Mulloy

Inspector