



Appeal Decision

Site visit made on 29 August 2023

by C Livingstone MA(SocSci) (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/K0940/W/23/3320399

Gilthroton, Cowan Head, Burneside, Cumbria, LA8 9HQ

- 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 Mark Cropper of Ellergreen Estate against the decision of Westmorland and Furness Council.
 - The application Ref SL/2022/1055, dated 18 November 2022, was refused by notice dated 4 January 2023.
 - The development proposed is the erection of new dwelling and ancillary building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was originally determined by South Lakeland District Council. In April 2023 South Lakeland District Council was abolished and its functions were transferred to Westmorland and Furness Council. The Local Government (Boundary Changes) Regulations 2018, allow for any extant development plans to have effect as if adopted by the successor Council until such time as the successor Council adopts a plan covering the whole of its area. For the purposes of this appeal, the development plan comprises the South Lakeland Local Development Framework Core Strategy, adopted October 2010 (CS) and the South Lakeland Development Management Policies Development Plan Document, adopted March 2019 (DMP).

Main Issues

3. The main issues are:
 - whether the appeal site represents a suitable location for housing, having regard to the settlement hierarchy and access to services and facilities;
 - the effect of the proposal on the character and appearance of the area.

Reasons

Location

4. The CS sets out the Council's sustainable development principles (CS1.1) and development strategy (CS1.2) which seek to direct new housing development towards larger settlements, "where there is adequate service and infrastructure capacity". For the purposes of those policies, I consider Cowan Head, where the appeal site is located, to be a small, disjointed hamlet dominated by blocks of dwellings. Based on the evidence before me and my own observations, the hamlet was formed following the conversion of a mill building, and has been

added to by subsequent development including conversion of agricultural buildings

5. In order to accommodate the requirements of the National Planning Policy Framework (the Framework) part of CS1.2 which relates to housing development on the edge of small settlements was superseded by the DMP. In that respect, it is recognised in Policy DM13 and its supporting text, via a positive approach to new small-scale housing development within or on the edge of small villages and hamlets, that small settlements are an important part of housing land supply. Notwithstanding this, the policy also seeks to ensure that new residential development will make a positive contribution to small settlements in the rural area and would not result in unacceptable intrusion into the open countryside. In addressing those issues, Policy DM13 sets out five criteria that new housing development on the edge of small villages and Hamlets must meet.
6. The approach of the aforementioned policies is consistent with the Framework, which establishes that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. In that regard and in the interest of certainty, I am satisfied that given the proposed dwelling lies close to other existing properties with the hamlet that it would not consist of an isolated home in the countryside for the purposes of paragraph 80 of the Framework and does not require an essential need to be demonstrated. However, it is still necessary that the proposal meets the requirements of small-scale housing development of Policy DM13, which include good access to one or more other settlements with services, or to larger service centres.
7. The evidence before me and my own observations indicate that there are no public services for example a shop, public house, church or school within Cowan Head, such that the future occupants of the proposed dwelling could walk to meet their everyday needs. There is no pavement on large sections of the roads to nearby settlements, such as Staveley and Burneside, and the roads are largely unlit such that it would not feel safe or be pleasant to use, even for a short distance. There are off-road alternatives available such as the nearby public footpaths serving parts of routes to larger settlements. However, based on my observations they would not be suitable nor convenient routes during periods of darkness or inclement weather. Furthermore, the differences in topography would likely discourage travelling the distances involved by walking for many, particularly those with young children or mobility issues.
8. In reaching the above view I have taken in to account that the appeal site may present opportunities for cycling. Within paragraph 112 of the Framework the Government places pedestrian and cycle trips at the top of the movement hierarchy, with the facilitation of public transport as a secondary matter to be pursued as far as possible. However, given the nature and speed of vehicles on Winter Lane, this is likely to only be appealing to more experienced and confident road cyclists. As such that the opportunities for cycling would be of limited benefit overall.
9. The appellants statement notes that the nearest public bus stop is approximately 1.9 kilometres from the site at Bowston. However, this is afforded only limited weight given the distance and that the primary pedestrian route to this bus stop would be via Winter Lane, an unlit road with no footpath. The location of the appeal site is such that future occupiers of the proposed

dwelling would be more likely to rely on the private car as a safer and more convenient mode of transport, particularly to access employment and supermarkets.

10. The proposal would not, of itself, generate a large number of traffic movements. Furthermore, a greater dependency on car use is inevitable in rural locations and there are existing residential properties in the immediate vicinity. However, the cumulative effect of allowing further development in locations such as the proposal, that lack good access to one or more other settlements with services, or to larger service centres by means of travel other than the use of a car, would unacceptably increase the amount of less sustainable journeys made.
11. The appellant has referred to an example of a previous planning application, dating from 2016, where Cowan Head was assessed to be well located for services. However, I do not have full details of this scheme. In any case I have considered the appeal proposal on its own merits based on the evidence before me.
12. I conclude that the appeal site does not represent a suitable location for housing, having regard to the settlement hierarchy and access to services and facilities. It would therefore conflict with Policies CS1.1 and CS1.2 of the CS and Policies DM1 and DM13 of the DMP. These policies are consistent with the Framework in seeking to direct housing to settlements where there are suitable services and sustainable transport networks, to provide access by pedestrians, cyclists and those with reduced mobility and minimise the need to travel.

Character and appearance

13. As previously mentioned, the appeal site lies to the north of Gilthroton Barn in Cowan Head, a small hamlet whereby the majority of the other dwellings within the settlement front on to the road, with the exception of the farm building that has been subdivided into several properties to the south of the site. Both the converted farm building and application site are accessed via a private track running between two existing dwellings 'The Mill Race' and 'Cowandale'. The site comprises of an area of hardstanding, an existing block of 4 garages, sheep pens and part of an agricultural field. A dry stone wall runs along the northern boundary of the site.
14. There is no formal boundary to the majority of the appeal site and the development would appear incongruous relative to the dwellings to the east that front on to the road. The introduction of the proposed dwelling and ancillary building to replace an existing garage, would cumulatively result in overly cramped grouping of properties when taken with the converted agricultural building. This would be observed from the adjacent public footpath in particular, which would also experience an increased sense of enclosure to its diverted alignment when passing the development. The resultant effect would disrupt and therefore, undermine the existing visual transition from open countryside to a loose knit grouping of built form that contributes to the intrinsic character of the rural setting. The harmful effect would be worsened by the conspicuousness of the siting and orientation of the dwelling with a gable fronting on to the remaining yard and the principal elevation facing south, largely beyond the western edge of the converted agricultural building, which would result in it being an overly prominent and dominant feature when observed by members of the public walking along the public footpath.

15. In reaching the above findings, I have taken account of the evidence provided in support of the application, including the Character and Place Assessment, and recognise that careful consideration has been given to the design of the proposed dwelling with a fenestration pattern that mimics a barn conversion and the utilisation of a palette of traditional materials, that reflects the rural location. This would assist in minimising the effect on the wider landscape when taking account of differences in topography and when viewed in the context of surrounding buildings, together with the partial screening offered by trees and other vegetation to some vantage points, particularly in summer months, with potential also to secure additional landscaping via condition. However, those matters do not outweigh nor would they be capable of sufficiently mitigating the harmful localised effect of the proposal on the character and appearance of the area when observed in close proximity along the adjacent public footpath for the reasons set out above. Whilst it is acknowledged that there would be isolated visual benefits associated with the removal of the existing garage and repairs to the dry stone wall, the limited benefits in those respects also do not offset nor justify the harm identified.
16. It follows that I conclude that the proposed development would harm the character and appearance of the area. The proposal is, therefore, contrary to Policies CS8.2 and CS8.10 of the CS and Policies DM1, DM2 and DM13 of the DMPs which require, among other things, that sites for new dwellings on the edge of hamlets are well contained within existing landscape features, are physically connected, and integrate with the settlement. As well as responding appropriately to the locational context and settlement character and distinctiveness. The policies are consistent with the Framework in those respects.

Other Matters

17. The development would make a positive contribution to the supply of housing with potential low carbon credentials. The proposal would also have benefits to the local area, including necessary construction works associated with the development and use of local services and facilities when occupied.
18. The access and parking arrangements would be a safe and acceptable highway solution for the limited increase in traffic and parking demand. The separation distances would ensure no harmful impact in terms of outlook or loss of privacy to occupiers of neighbouring properties or for future occupiers of the development. However, the absence of concern in those respects is a neutral factor.

Conclusion

19. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the policies of the development plan relating to housing in rural areas due to inadequate accessibility of local services and facilities resulting in some reliance on private car use, and harm upon the character and appearance of the area.
20. The conflict with the development plan, the Framework and the associated harm are significant and overriding factors. The other material considerations in this case, including the limited contribution to housing supply and associated

benefits previously identified, do not indicate that the application should be determined otherwise than in accordance with the development plan.

21. For the reasons given above, I conclude that this appeal should be dismissed.

C Livingstone

INSPECTOR