



Appeal Decision

Site visit made on 23 January 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2024

Appeal Ref: APP/K0940/W/23/3326309

Land to the South of Eversley Coach House, Leasgill LA7 7EY

- 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 Mr and Mrs Peter and Jane Clarke against the decision of Westmorland and Furness Council.
 - The application Ref SL/2023/0250, dated 20 March 2023, was refused by notice dated 16 June 2023.
 - The development proposed is outline planning application for the erection of a detached dwelling and detached garage/workshop with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application is submitted in outline with all, but access reserved for a subsequent reserved matters application. Access details are shown on the Indicative Proposed Site Plan (1:500) and Visibility Splays of Client Access Drawing No. V1. I have therefore taken these plans as containing details of the access sought. I have however treated the layout shown on the Indicative Proposed Site Plan for indicative purposes only.
3. An update to the National Planning Policy Framework (the Framework) has been published dated 19 December 2023 but there are no material changes relevant to the substance of the appeal.

Main Issues

4. The main issues are:
 - The effect of the proposed development on highway safety;
 - Whether the site location is suitable for residential development, having regard to the spatial strategy of the development plan;
 - The effect of the proposed development on the character and appearance of the surrounding area, including landscape character; and
 - The effect of the proposed development on the living conditions of existing occupiers of Leasghyll Barn with particular regard to privacy of their outdoor amenity space.

Reasons

Highway safety

5. The appeal site is accessed from the C5072 public highway to the west of the site which is also used to serve a number of other residential properties located to the south of the site. Although there is an existing access serving the site from the C5072 public highway, visibility at the access point is severely restricted particularly to the south. This is due to the bend in the road located close to the site entrance and the existing tall boundary treatments which are situated immediately adjacent to the road to the south of the site access. At my site visit, I observed the movements of vehicles along the road and while only a snapshot in time, I saw that the road had a relatively regular flow of traffic. Upon exiting the site, there is very limited ability to see vehicle movements along the highway particularly those approaching from a southerly direction.
6. The C5072 public highway is subject to a speed limit of 30 miles per hour and I note the speed survey results which found speeds to be 31 miles per hour northbound and 30 miles per hour southbound which would justify splays of 43 metres and 45 metres, respectively. The evidence before me shows that only a splay of 14 metres northbound and 7 metres southbound could be achieved (measured 2.4 metres back). This would be significantly less than the visibility requirements set out above and even with a level of flexibility applied, it would be significantly substandard. This, coupled with the site constraints such as the bend in the road would lead to conditions prejudicial to highway safety.
7. I acknowledge the existing and proposed trip rates and whilst the anticipated traffic generation of 1 residential dwelling would be low, the proposed development would still lead to an intensification of use where visibility would still be severely restricted resulting in highway safety issues. I am aware of the traffic flow rates as set out in the Highway Impact Report and whilst there may be small gaps between moving vehicles, movements to and from the site could still coincide with oncoming traffic along the highway which would without sufficient visibility, create a threat to highway safety.
8. Existing infrastructure is likely to predate current highway design standards and guidance and there may well be other existing private accesses in the vicinity of the site with less visibility. However, this does not justify further development which would result in harm to highway safety. The easy access to nearby services via sustainable transport methods and historical accident levels along with driver caution/care would not be sufficient to alter my findings on this or outweigh the identified harm as this would not stop people from using the vehicular access.
9. My attention has been drawn to two previous planning appeal cases ¹ which considered matters relating to the safe and efficient use of the highway. Whilst I do not have all of the information which would have been before the Inspectors in those cases, these sites are located elsewhere away from

¹ APP/P0430/W/20/3256435 and APP/C9499/W/21/3279882

the appeal site whereby their site-specific characteristics and context would be different to that of the appeal site. Additionally, one of the appeals references an achievable splay of 28 metres which is far more than the achievable visibility in this case. The other explains that the Inspector observed a low level of vehicle movements during their site visit and that they had no reason to take a different view to that of a previous Inspector who did not consider the existing access to be so constrained in relation to the prevailing road conditions that it could not safely accommodate the level of vehicle movements generated by a single additional dwelling. In determining the appeal before me, taking into account the evidence submitted and my own observations onsite, I find that the visibility at the access point is so severely restricted particularly to the south whereby further movements to and from this access would have an unacceptable impact on highway safety. These appeals are therefore not directly comparable, and, in any event, I have determined this appeal based on its own merits and specific site context.

10. For the above reasons, I conclude that the proposed development would harm highway safety and would be contrary to Policy CS10.2 of the South Lakeland Local Development Framework Core Strategy, 2010 (CS) which amongst other matters, requires proposals to provide for safe and convenient access. For the same reasons, the proposed development would also be contrary with paragraph 115 of the Framework which explains that development will only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Location

11. Policy CS1.2 of the CS sets out the development strategy and seeks to concentrate development in the settlements according to their status within the settlement hierarchy. The settlement of Leasgill is not named within the settlement hierarchy and thus falls within that identified as smaller villages, hamlets, and open countryside. The Policy sets out that approximately 11% of new housing and employment development will be in the network of smaller villages and hamlets and that no development boundaries will be identified for the smaller villages and hamlets. New small-scale infilling and rounding off development will be permitted outside the service centres, in order to satisfy local needs across the numerous smaller villages and hamlets scattered across the district. Policy CS5 sets out the area strategy for the east and whilst Leasgill is not mentioned within the policy, the supporting text does identify Leasgill (along with Haversham) as a smaller village and hamlet.
12. Policy DM13 of the Development Management Policies, 2019 (DMP) relates to housing development in small villages and hamlets and provides support for new small-scale housing development on sites within or on the edge of small villages and hamlets (without development boundaries) provided that it complies with a number of criteria which includes amongst others, that the small village or hamlet comprises a recognised settlement of normally 10 or more dwellings, in contiguous clusters and without significant open

areas between buildings, but excluding groups of houses arising solely or mainly from the conversion of farms in isolation.

13. I accept that the main built-up area of Leasgill centres on the village hall located further south of the appeal site with development more dispersed travelling north towards the appeal site. However, the distances between each property travelling northwards are not significant and whilst there are variations in ground levels in places and intervening highway, the properties are visible from one another, dotted along either side of the road. The hedging that exists does little to impede this visual relationship and to my mind, such properties form contiguous clusters without significant open areas between buildings and is therefore a recognised settlement as per the requirements of Policy DM13.
14. Closer towards the appeal site, development becomes less dispersed, and the officers' report recognises that Crofts Farmhouse located further south from the appeal site does form part of a cluster of built form alongside the dwellings to the north and on the opposite side of the highway to the west. The appeal site is located north-east of this cluster of built form and is separated by an intervening private track which serves a number of properties and the appeal site. Nevertheless, the appeal site is surrounded by built form to the north and south and is visually well related to both. The proposed dwelling would form a continuous level of development likely to be viewed in association with all of the adjacent built development. The appeal site is currently used as further amenity space associated with Eversley Coach House located to the northwest and the appellant explains that the dwellings to the north including, Eversley Coach House, Eversley Lodge, Leasghyll Barn and Long Barn were the lodge house and ancillary buildings associated with the Eversley Estate, specifically Eversley House (former stately home). Although the Council set out that those properties all appear to have arisen solely from conversion of a farm in isolation which are explicitly excluded from the definition of small villages and hamlets by Policy DM13, it is part of a former stately home estate which, although might have included a farm, it is not just a farm in its own right.
15. Consequently, the site location is suitable for residential development, having regard to the spatial strategy of the development plan. It would therefore comply with Policies HH1 and HH3 of the Heversham and Hincaster Neighbourhood Plan to 2025, Policies CS1.1 and CS1.2 of the CS, Policy DM13 of the DMP and Policy LA1.1 of the Local Plan Land Allocations Development Plan Document, 2013 which together, amongst other matters, supports new small-scale housing development on sites within or on the edge of small villages and hamlets (without development boundaries) provided it meets with policy which is discussed further below. For the same reasons, the proposed development would also comply with paragraph 15 of the Framework which explains that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for meeting housing needs and addressing other economic, social, and environmental priorities; and a platform for local people to shape their surroundings.

Character and appearance

16. The appeal site is located within a main broad valleys landscape character sub-type as defined by the Cumbria County Council – Cumbria Landscape Character Guidance and Toolkit which is characterised by, amongst other things, wide and deep valleys with open floodplains and rural farmland and pockets of scrub, woodland and coniferous plantations bound by hedges and stone walls. The small villages commonly retain a strong vernacular character and are often linear close to rivers.
17. I do not dispute that the site and its surroundings comprise a rural agricultural character with a number of former agricultural buildings and whilst development is more dispersed further south, the site lies within a more built-up area close to other existing properties and thus benefits from a visual association. Whilst many properties nearby tend to be located directly or closely adjacent to the public highway, this is not always the case and the relationship between properties and the highway varies in terms of positioning and orientation of properties with various styles of buildings. The cluster of built form to the south extends further eastwards and whilst matters relating to appearance, landscaping, layout, and scale are reserved for a subsequent application where a full assessment would be made, I am content that a proposed dwelling along with a detached garage/workshop could be achieved on the lower portion of the site which would harmonise with and be well contained within the existing built form. Despite its set back position, it would not protrude beyond the building line of nearby development to a harmful degree, and it would still be viewed in association with the adjacent built development rather than being an intrusion into the countryside/landscape.
18. The site forms a small gap between built development and the lack of built form on the site does allow for some views through and beyond into the wider agricultural landscape. However, this covers a small section between built development where views are filtered given the presence of trees and vegetation on the site and to its boundaries which would be more limited when trees are in full leaf. Further, given the positioning of the dwellings/boundary treatments along the main highway, such views can only really be fully appreciated when stood directly to the west of the site or from neighbouring windows. Whilst the proposed development would close the gap between properties and thus limit some of the views currently afforded, this would have very limited impact on the overall character and appearance of the area, including its landscape given the modest size of the development and relationship between built form. Overall, I consider that the development could sympathetically integrate within the landscape and still maintain an element of the views around the site.
19. For the above reasons, the proposed development would not unacceptably affect the character and appearance of the surrounding area, including landscape character. It would therefore accord with Policies CS1.1, CS8.1, CS8.2 and CS8.10 of the CS, Policies DM1 and DM2 of the DMP which together, amongst other matters, seek to protect and enhance the landscape and settlement character. For the same reasons, the proposed development would also accord with paragraphs 135, 139 and 180 of the

Framework relating to achieving well-designed and beautiful places and conserving and enhancing the natural environment.

Living conditions

20. Leasghyll Barn is located to the west of the site whereby its main external amenity area is that to the south which extends across the front of the appeal site. It is however separated from the appeal site by a post and wire fence and vegetation.
21. The proposed development would involve the construction of a dwelling to the east of this external amenity space. I note the Council and third-party concerns regarding the likelihood of windows being located within the west elevation of the proposed dwelling which would provide outlook over the amenity space resulting in a loss of privacy for existing occupiers of Leasghyll Barn. I also note concerns regarding the retention and effectiveness of existing screening as well as other forms of boundary treatments in terms of visual impact. However, matters relating to appearance, landscaping, layout, and scale are reserved for a subsequent application and thus no details have been provided to sufficiently demonstrate that existing occupiers would be unduly harmed by loss of privacy of their external amenity area even taking into account the topography of the site. Given the size of the land in question and presence of existing boundary treatments which already filters views even when not in leaf, as well as the opportunity for further landscaping, I am satisfied that privacy matters can be addressed at the reserved matters stage.
22. I am aware of the positioning of windows within Leasghyll Barn and note that the windows within the eastern elevation face onto the appeal site. Based on the orientation of the property and overall relationship between the site and the existing elevations as well as the size/shape of the appeal site, I am satisfied that it would be possible to design a scheme that would avoid any potential for overlooking of habitable rooms.
23. For the above reasons, I conclude that the proposed development would not harm the living conditions of existing occupiers of Leasghyll Barn with particular regard to the privacy of their outdoor amenity space. On this basis, it would accord with Policy DM1 of the DMP which amongst other matters, seeks to ensure a satisfactory level of residential amenity. For the same reasons, the proposed development would also comply with paragraph 135 of the Framework which requires planning policies and decisions to ensure that developments amongst other matters, create places with a high standard of amenity for existing and future users.

Other Matters

24. The proposed dwelling would be accessible accommodation to ensure that the dwelling is fit for purpose in meeting the appellants' future mobility needs. I also note the appellant's comments regarding the delivery of housing within a rural settlement which would be a benefit and I note the claims regarding shortfall in this regard as well as noting the availability of services and accessibility of the site. Reference has also been made to the proposed dwelling being project managed by the applicants as a self-build

property although details of this are limited to enable me to consider it further. Notwithstanding, the modest contribution of one property would not be sufficient to outweigh the harm identified taking into account my findings on highway safety nor would any onsite biodiversity net gains.

Conclusion

25. Although I have found a lack of harm in relation to location, character and appearance and living conditions, I have found harm to highway safety. It follows that the proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweighs this conflict.
26. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR