



Appeal Decision

Site visit made on 20 February 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2024

Appeal Ref: APP/K0940/W/23/3329475

Land North of Greylags, Foxfield, Broughton-In-Furness LA20 6BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs P Loftus against the decision of South Lakeland District Council.
 - The application Ref is SL/2023/0039.
 - The development proposed is erection of a two-bedroom dormer bungalow with an undercroft garage including associated operations.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-bedroom dormer bungalow with an undercroft garage including associated operations at land north of Greylags, Foxfield, Broughton-In-Furness, LA20 6BX in accordance with the terms of the application, Ref SL/2023/0039, subject to the conditions in the attached schedule.

Preliminary Matters

2. In April 2023, South Lakeland District Council merged with Barrow-in-Furness Borough Council and Eden District Council to form Westmorland and Furness Council. The development plans for the merged local planning authorities will remain in place for the area within the new authority until such time as they are revoked or replaced. I have determined the appeal on this basis.
3. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the appeal proposal is considered. References in the decision are to the December 2023 Framework.

Main Issues

4. The main issues are whether the site would represent an appropriate location for the proposal having regard to the development strategy for the area; and the effect of the proposal on the character and appearance of the area.

Reasons

Development Strategy

5. Policy CS1.1 of the 2010 adopted South Lakeland Local Development Framework Core Strategy (the Core Strategy) sets out several sustainable development principles. These include protecting the countryside and that most new developments should be directed to existing service centres where there is adequate service and infrastructure capacity to accommodate the required

levels of development. To support these principles, Policy CS1.2 of the Core Strategy defines the development strategy for the area, based on a settlement hierarchy.

6. Policy DM13 of the 2019 adopted South Lakeland Development Management Policies (the DMP) sets out the approach for new housing developments in small villages and hamlets (without development boundaries). The policy allows for new small-scale housing developments on sites within or on the edge of small villages and hamlets provided that certain criteria are met.
7. Criterion 5 of Policy DM13 requires 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. The Council's officer report identifies Foxfield as a rural hamlet with a dispersed polycentric settlement pattern, the most discernible centre consisting of the built form around the Prince of Wales Hotel (the Hotel). The appellant describes Foxfield as a recognised settlement of 10 or more dwellings in a loose cluster. Based on the submitted evidence and my site visit observations, in my judgement, Foxfield would meet the definition of a hamlet for the purposes of criterion 5.
8. The appeal site comprises the northern part of the garden of Greylags, a two-storey dwelling, which forms part of a small cluster of dwellings. This cluster sits at a higher level than the group of properties sited around the Hotel. The land continues to slope upwards, which restricts longer distance views of the open countryside to the east. This small cluster of dwellings are seen against the backdrop of this rising land. Consequently, they appear contained within the landscape and with a stronger relationship to the built form of the village than to the open countryside beyond.
9. To the west of the site, two dwellings have relatively recently been constructed in between the property at The Beeches and the terraced dwellings near to the Hotel. The result is a more continuous built form around The Beeches and so this dwelling is both spatially and visually well related to the other properties within what the Council describes as the most discernible centre. Although Greylags sits at a higher level than The Beeches, the boundaries of the gardens are nevertheless close.
10. The character and appearance of the site is not one of open undeveloped countryside. It is clearly domestic in character, with manicured grass and other residential paraphernalia apparent. Consequently, the site appears to relate more to the built form associated with Greylags than it does to the surrounding countryside, being more domestic in character and appearance rather than exhibiting the characteristics of the surrounding rural landscape.
11. This is compounded by the sense of containment from the surrounding countryside that is afforded by the northern boundary wall. This wall links into the northern garden boundary of the dwelling at The Beeches, and beyond that to the northern boundary of the newer dwellings. Although not particularly tall, the wall nevertheless forms a clear and pronounced boundary between the site and the open countryside to the north. This is apparent when viewed from the road beside the site, and from vantage points within the group of dwellings near to the Hotel and along the A595 road which runs through the settlement. In addition, when viewed from the group of dwellings near to the Hotel and the A595, the proposed dwelling would be seen with the dwelling at High Bank sitting further to the north.

12. Given this particular context, in my judgement, when at the site and when viewing it from the group of dwellings near to the Hotel and vantage points on the A595, the sense would be of the site being on the edge of the hamlet. As such, I am satisfied that the site would fall within the scope of Policy DM13 in this regard.
13. For the same reasons as given above, I am satisfied that the site is well contained within existing landscape features, is physically connected, and integrates with, the settlement, and would not lead to an unacceptable intrusion into open countryside, as required by criterion 3 of Policy DM13.
14. In terms of the other criteria in Policy DM13, one dwelling would be proportionate to the size of the settlement. I turn to the design of the proposed dwelling below. The proposal would help to maintain the vitality of the rural community. Although Foxfield has limited services and facilities, it does have a train station around 500 metres from the site and two bus stops. I note that the Council has not raised concerns about the accessibility of the site to services and facilities.
15. The Council has drawn attention to an appeal decision¹ which it is contended lends weight to its position that the site would not accord with Policy DM13. However, that case related to dispersed farmsteads with significant open areas formed of fields between them, giving the sense of being within the countryside. The Inspector concluded that the buildings did not therefore form a hamlet. This is different to the case here where Foxfield is recognised as a hamlet, and as set out above, while there is a somewhat dispersed built form, one has the sense of being in a settlement rather than the countryside. The example is not therefore directly comparable to the appeal proposal, which I have in any event considered on its own planning merits.
16. I therefore conclude that the site would represent an appropriate location for the proposal having regard to the development strategy for the area. Accordingly, the proposal would accord with the requirements of Policies CS1.1 and CS1.2 of the Core Strategy and Policy DM13 of the DMP as summarised above.
17. The Council has cited a conflict with Policy LA1.1 of the 2013 adopted Local Plan Land Allocations Development Plan Document. This policy defines development boundaries for the Principal, Key and Local Service Centres defined in the Core Strategy. It states that the development needs of these settlements shall be met within these development boundaries. The supporting text for the policy states that no development boundaries are proposed for small villages and hamlets which is the level in the settlement hierarchy that Foxfield falls within. I therefore find no conflict with Policy LA1.1. I am not convinced that paragraph 15 of the Framework is relevant to the proposal, given that it sets out the expectations for plan making, although it does underline the plan-led system.

Character and Appearance

18. The Council describes the site as being located within an upland fringes foothills landscape character sub-type, as defined by the County Landscape Appraisal² which is characterised by, amongst other things, rolling and hilly farmland and

¹ Appeal reference APP/M0933/W/22/3298021

² Cumbria Landscape Character Guidance and Toolkit

moorland bounded by stone walls and hedges, and occasional rocky outcrops. A number of these characteristics are apparent in the landscape in which the site is set. For the reasons set out above, the location of the proposal would not have a harmful effect on landscape character.

19. The nearest dwellings have their main elevation facing the road, which would not be the case with the proposed dwelling as it would present a gable elevation. The design of the proposed dwelling and the materials proposed would be more contemporary than some of the nearby dwellings. However, there are examples of more contemporary buildings in the vicinity including the two more recently completed dwellings located near to The Beeches. In addition, the proposed use of render and slate would provide a link to the surrounding built form. The design incorporates a number of projections. However, this would not be dissimilar to Greylags, which has dormers, a number of gables and a variety of window openings. The projections would add to the building's mass and scale. However, in my view, they would not be so dominant that they would be visually overwhelming or discordant features.
20. I appreciate the importance of consistency in terms of design and grain of development especially where there is homogeneity in the built environment. However, this is not the case here, where there is considerable variety in dwelling forms within the area including a mix of detached, and terraced properties; bungalows and two storey dwellings; older traditional properties and more modern house types. There is also some diversity in the orientation of the properties which can be seen in views from the road to the north of the site.
21. The proposed dwelling would sit close to the northern boundary of the site. However, it would be setback from the road on a similar line as Greylags and the dwellings opposite and would have a reasonable sized garden area with space around its other boundaries. It would not therefore appear as an incongruously cramped form of development.
22. There would be limited scope for landscaping along the northern boundary of the site and so there would be a less gradual transition from the open countryside from the north than is currently the case. However, as noted above, the site is in a domestic use and as such, has a markedly different character and appearance to the landscape on the other side of the boundary wall. This wall is a clear boundary feature especially when viewed from vantage points to the north along the road. In my judgement, the lack of landscaping along the northern boundary would not have a harmful effect on the landscape character of the area.
23. Overall, therefore, the location, design, orientation, and scale of the proposal would not represent an incongruous form of development within its local context, having regard to the character of the landscape and the built and natural environment. Consequently, I conclude that the proposal would not harm the character and appearance of the area. Accordingly, the proposal would accord with Policies CS1.1, CS8.2 and CS8.10 of the Core Strategy and Policies DM1 and DM2 of the DMP. Amongst other considerations, these policies require development to have a high-quality design that responds appropriately to local context and distinctiveness and protects landscape and settlement character. The proposal would also accord with the design objectives in

paragraphs 135 and 139 of the Framework, and paragraph 132 although this is more directed towards plan-making.

Conditions

24. I have considered the conditions suggested by the Council and have amended the wording of certain conditions in the interests of precision.
25. As well as the standard time condition, and for certainty, one is required to ensure that the development is carried out in accordance with the approved plans.
26. It is necessary to require details of the surface water management and the disposal of foul water to ensure adequate provision is made in the interests of managing flood risk. In the interests of highway safety, a condition is necessary to ensure that an acceptable visibility splay is provided and maintained. These conditions need to be complied with pre-commencement as compliance with the requirements at a later time could result in unacceptable harm.
27. To ensure an acceptable design, a condition is necessary to require details of the materials to be used in the construction of the external surfaces and external surfacing of the development. In the interests of highway safety, conditions are necessary to require that any gates only open inwardly, that the access is surfaced in an appropriate material and that the parking and turning areas are provided and maintained as such. In the interests of biodiversity, a condition is necessary to secure an environmental net gain scheme. To protect the living conditions of occupiers of the adjacent dwelling, conditions are necessary to ensure that the Juliet balcony on the southwest elevation is not installed and that the alterations proposed to Greylags are implemented within an appropriate timescale. A requirement for the solar photovoltaic panels shown on the approved plans to be installed is necessary in the interests of sustainable design and in line with Policy CS8.7 of the Core Strategy. To ensure that the dwelling is accessible and adaptable and in line with Policy DM11 of the DMP, a condition is necessary to ensure it is constructed to meet the Building Regulations M4(2) standards.

Conclusion

28. The proposal would accord with the development plan as a whole. There are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 494001-FC-ZZ-XX-DR-A-002; Alterations to Greylags 494001-FC-ZZ-XX-DR-A-006; Proposed Elevations 494001-FC-ZZ-XX-DR-A-005 Rev D; Proposed Floor Layouts 494001-FCA-00-00-DR-A-004 Rev B; Site Plan 494001-FC-ZZ-XX-DR-A-003 Rev B; Visibility Splay Details 494001-FCA-ZZ-XX-DR-A-008.
- 3) The development shall not commence unless and until full details of surface water management and the disposal of foul water have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved surface water management and the disposal of foul water details have been provided on the site to serve the development. They shall be retained as such thereafter.
- 4) The development shall not commence unless and until visibility splays providing a clear visibility of 60 metres measured 2 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway. The visibility splays shall thereafter be maintained free of any obstruction over 1 metre in height above the adjacent carriageway.
- 5) No above ground works shall commence unless and until samples and details of the materials to be used in the construction of the external surfaces and external surfacing materials of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details which shall be retained thereafter.
- 6) Prior to first occupation of the development hereby permitted, an environmental net gain scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved environmental net gain scheme shall be implemented in accordance with a timetable contained therein.
- 7) Prior to first occupation of the development hereby permitted, the access drive shall be surfaced in bituminous or cement bound materials. The surfacing shall extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.
- 8) Prior to first occupation of the development hereby permitted, the parking and turning areas shown on the approved plans shall be constructed and made available for use and shall be retained as such thereafter. The parking spaces shall be used solely for the benefits of the occupants and visitors of the development hereby permitted and for no other purpose.
- 9) Prior to first occupation of the development hereby permitted, solar photovoltaic panels shall be installed on the southwest roof slope of the dwelling in accordance with the approved plans and shall thereafter be retained.

- 10) Prior to first occupation of the development hereby permitted, the alterations to Greylags shown on the approved plan 494001-FC-ZZ-XX-DR-A-006 shall be implemented.
- 11) The development hereby permitted shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes.
- 12) No Juliet balcony shall be installed on the southwest elevation of the development hereby permitted.
- 13) Access gates, if provided, shall be hung to open inwards only away from the highway.