



Appeal Decision

Site visit made on 9 July 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 31 July 2024

Appeal Ref: APP/F0935/W/24/3340999

Site adjacent to Garth Road, Workington CA14 5AH

- 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 Diane Gorge of Westfield Housing Association against the decision of Cumberland Council.
 - The application Ref is FUL/2023/0071.
 - The development proposed is erection of 5 two bed bungalows, new site access and associated external works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 5 two bed bungalows, new site access and associated external works at Site adjacent to Garth Road, Workington CA14 5AH in accordance with the terms of the application, Ref FUL/2023/0071, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the provision of open space.

Reasons

3. The appeal site is a roughly triangular parcel of land enclosed by the rears of properties on Garth Road, Westfield Drive and Ghyll Road. A small part was formerly used as a private allotment by one of the neighbouring properties. The site is largely overgrown with unmanaged grassland, encroaching brambles and scrub. Boundaries are primarily formed by mature hedgerows, with garden gates to the rear of several neighbouring properties. This part of Workington is characterised by urban residential development, predominantly semi-detached and short terraces, interspersed with areas of open green space.
4. The proposal would be a small development with a single terrace comprised of 5 single storey dwellings, private and communal garden areas and accessible parking and turning space for 12 vehicles. The terrace would be sited across the higher-lying eastern part of the appeal site, but set down from the rears of the Ghyll Road properties with retaining walls. The Council considers that the design and external appearance of the proposal would be acceptable, and I see no reason to disagree. However, the proposal would result in the loss of unallocated green space.
5. Policy SA51 of the Allerdale Local Plan (Part 2) Site Allocations Adopted July 2020 (the ALP2) seeks to protect important areas of amenity greenspace, including open space and undeveloped land, that contribution to the quality of

the environment in terms of visual amenity, the health and well-being of communities and by supporting biodiversity. The National Planning Policy Framework (the Framework) similarly recognises that accessible open spaces are important for the health and well-being of communities, and it defines open space as all open space of public value which offer important opportunities for sport and recreation and can act as a visual amenity.

6. The development of the appeal site would be a significant visual change, but the loss of the green space would not affect the character and appearance of the wider area. Only limited views of boundary vegetation are afforded through gaps between neighbouring dwellings, and the boundaries would be retained. If the low roofs of the dwellings were visible in the limited public views, they would be unremarkable in the surrounding built context. The vegetated boundaries also largely obscure views of the appeal site from the neighbouring ground floor windows and gardens, except through the narrow garden gates which would be blocked up. While the proposal would be more readily visible from neighbouring first floor habitable room windows, the low development would not be visually obtrusive and the retained hedgerows, grassed areas and additional landscape planting would continue to contribute to visual amenity.
7. The neighbour representations indicate that the appeal site was historically used as allotment land. However, while a part of the land was leased on a private basis to a neighbour and used to grow produce until relatively recently, there is little evidence in relation to any wider use of the site. Moreover, irrespective of the demand for allotments in the area, the appeal site is privately owned and not protected under the relevant allotment legislation.
8. The gates in the boundaries provide access into the site from neighbouring gardens. At the time of my visit I saw evidence of hedgerow management and in places the disposal of garden waste including composting material and prunings. However, the site is largely overgrown, difficult to walk across and there is little evidence that it is suitable for or in recreational use. Irrespective, the site is private and it is not open to the public.
9. I understand that the undeveloped green space is valued by the surrounding residential occupiers. However, it makes little visual contribution to the character and appearance of the townscape and it is not in community use. It seems reasonably unlikely that the appeal site has any discernible value to the wider community and it is not an asset of community value.
10. The third party representations raise concerns about impacts on green infrastructure and biodiversity. The suitability of the appeal site to support Small Blue butterfly was assessed in 2022, at which time the site was densely vegetated and it lacked the necessary vegetation structure and caterpillar food plant species. Based on my visit, I see no reason to reach a different conclusion. There is little substantive evidence that the site supports species such as badgers or barn owl, taking into account its small size and isolated urban context surrounded by hazardous roads. As the boundary hedges would be retained and there would be new tree planting, the site would continue to be suitable for foraging or commuting bats and nesting birds. Subject to the maintenance of gaps in the neighbours' boundary treatments, there would be no loss of connectivity for species such as hedgehogs. The site is isolated from other areas of habitat and the grassland that would be lost is a habitat of

relatively low biodiversity value. The proposal would not harm open space that makes an important contribution of biodiversity.

11. Therefore, I conclude that the proposal would not adversely affect the provision of open space. It would not result in the loss of accessible public open space or an otherwise important area of amenity greenspace in terms of visual amenity, the health and well-being of communities or biodiversity. The proposal would not adversely affect the provision of sports and recreation facilities and public open space. Accordingly, it would not conflict with Policy S25 of the Allerdale Local Plan (Part 1) Strategic and Development Management Policies Adopted July 2014 (the ALP1) or Policy SA51 of the ALP2 and Cumberland Plan 2023. These require, among other things, maintenance and protection of formal and informal sports and recreation facilities and public open space, taking into account settlement character and local distinctiveness.

Other Considerations and planning balance

12. Workington has an increasingly aging population and a higher than average percentage of households in fuel poverty and on universal credit. As a result, there is an identified need and a significant unmet demand for accessible and adaptable dwellings, including older persons housing, and also for social or affordable rent housing.
13. Policy S10 of the LP1 supports the delivery of elderly needs accommodation, in recognition of the rapidly aging population of the area. This is consistent with the aims of the Framework in relation to meeting identified housing need, including the provision of an appropriate mix of housing types to address the needs of groups in the community with specific housing requirements, including those who require affordable housing, older people and people with disabilities.
14. The appeal site is in an accessible location in relation to services and facilities and public transport. The proposal would provide affordable housing for rent for over 50s and those with specific accessibility needs. Priority would be given to persons with specific medical needs and who are currently residents in the Westfield area. The dwellings are proposed to be constructed with high levels of insulation and renewable and low carbon technologies, in order to be energy efficient and economical to maintain. Consequently, the proposal would make an important contribution in terms of meeting the housing needs of the area.
15. The proposed residential use would be a marked change compared to the current unused land. However, there would be no side facing windows in the proposed single storey dwellings and that would be set below the level of the Ghyll Road properties. The low height and orientation of the dwellings, separation distances and tall boundary treatments would function to prevent overlooking or loss of privacy between habitable room windows or private outdoor spaces. For the same reasons, the single storey properties would not be overbearing or result in a poor outlook from neighbouring dwellings.
16. There would undoubtedly be an increase in residential activity, including comings and goings of vehicles. However, the evidence indicates that the majority of future occupiers would not be expected to own a car. Garth Road is stated to already be a very busy road and a low level of additional vehicular movements would not result in significant cumulative effects in this regard.

17. Concerns have been raised in relation to adverse effects on the health and well-being, including mental health, of the neighbours. One of the neighbours refers to their personal circumstances, including the distress their daughter would experience as a result of the noise and disturbance during construction and subsequent overlooking and loss of privacy. I accept there would be some disruption during construction, but this would be a short-term impact. An approved and implemented construction management plan would mitigate adverse impacts and provide clarity and certainty for the neighbours in this regard. As noted above, there would be no adverse overlooking or loss of privacy to the neighbours in their habitable rooms or outdoor spaces. There is little compelling evidence that a small development of accessible dwellings could not be sensitively integrated into the local area. Consequently, while I acknowledge the concerns of the neighbours in this regard, this is not a matter that weighs to any significant degree against the proposal.
18. However, and while it did not form part of the reason for refusal, the Council acknowledges that there would be an impact on the residential amenity of the occupiers of Nos 11 and 13 Garth Road. This would arise from the creation and operation of the new highway access between these properties. There would be a loss of part of each garden. The rear gardens would be screened by new tall close-boarded fences and the open frontages would be separated from the access by low walls. The single storey side extensions are not habitable areas and the first floor gable end windows serve bathrooms. Even so, and while an acceptable extent of outdoor space would be retained, the neighbours would be aware of vehicle movements past their properties.
19. As noted above, the occupation of the dwellings would not give rise to an undue number of vehicle movements and the activity would reflect the patterns in the wider area. In this regard, there would be lower levels of activity during the evenings and overnight, which are the times when the neighbours would be most likely to be enjoying their homes and gardens. Nevertheless, the existing neighbouring residential occupiers would perceive the loss of garden space and operation of the access as harmful to their residential amenity. That being said, the proposal would not result in a fundamentally unacceptable standard of residential amenity for occupiers of Nos 11 and 13.
20. My attention has been drawn to proposals that were deemed unacceptable elsewhere, at least in part due to impacts on residential amenity from new access arrangements. Notwithstanding, it is not unusual to find back lanes and parking areas to the rear of residential gardens and where access passes close to the side elevations of dwellings. I have taken into account the evidence provided, but schemes that are not demonstrably directly comparable to the proposal including in terms of the nature of the development and the surrounding context do not provide a justification to dismiss the appeal, which I have considered on its own merits.
21. I note the third party concerns in relation to the volume of traffic along Garth Road and highway safety. However, there would be adequate parking provision and turning areas for refuse and emergency vehicles. There would be adequate visibility splays onto Garth Road. On this basis, the proposal would not harm the safe operation of the highway. Other concerns, including in relation to the Housing Association and contractors, are not matters for the appeal.

22. I have found that the proposal would not result in the loss of public open space or important amenity space, albeit the undeveloped land is valued by the neighbours. There would be an impact upon the existing occupiers of Nos 11 and 13, but the proposal would not result in an unacceptable level of residential amenity for future occupiers. Conversely, the proposal would deliver significant benefits in terms of contributing to meeting the identified housing needs of elderly persons and those with specific accessibility needs.

Conditions

23. The Council suggests planning conditions in the event the appeal was allowed. I have considered these against the tests set out in the Framework.

24. In addition to the standard time limit condition (No 1), I have also imposed a condition specifying the approved plans in the interests of certainty (No 2). Condition Nos 3 and 11 (land contamination and remediation) are necessary in the interests of avoiding contamination of the local environment.

25. A construction method statement (No 4) is necessary to safeguard the residential amenity of the neighbouring occupiers. A construction traffic management plan (No 6) is necessary in the interests of the local highway network and highway safety. Condition No 8 (vehicle access, parking and turning, visibility splays) is necessary to ensure minimum standards in these regards. Condition No 13 (maintenance of visibility splays) is necessary in the interests of the highway safety.

26. Details of water drainage (No 5) are necessary to ensure satisfactory means of surface water drainage and minimise the risk of flooding. Condition No 12 (foul drainage) is necessary to ensure sustainable drainage and minimise the risk of water pollution to the local environment.

27. Condition No 7 (means of enclosure) is necessary in the interests of residential and visual amenity. Conditions No 10 and 14 (landscaping) are necessary in the interests of visual amenity. Condition No 9 (access to broadband) is necessary in the interests of high speed and reliable communications. Condition No 15 (blank gable elevations) is necessary in the interests of residential amenity.

Conclusion

28. For the reasons set out above, I conclude that the appeal should be allowed subject to planning conditions.

Sarah Manchester

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans:
22058-12 Rev B Site J Site Plan and Section;
22058-13 Rev A Site J House Type Plan and Elevations;
WDS/05/7273/112-P1 Drainage Plan.
- 3) In the event that site investigations identify land affected by contamination which poses unacceptable risks to human health, controlled waters or the wider environment then, prior to the commencement of the development hereby permitted, a detailed remediation scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan.

The approved remediation strategy shall be implemented and a verification report submitted to and approved in writing by the local planning authority prior to the development (or relevant phase of development) being brought into use.

- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a) Details of the management of all traffic associated with the development including the parking of vehicles of site operatives and visitors, turning and compound areas;
 - b) Procedure to monitor and mitigate noise and vibration from the construction and demolition and to monitor any properties at risk of damage from vibration, as well as taking into account noise from vehicles and deliveries. All measurements should make reference to BS7445;
 - c) Mitigation measures to reduce adverse impacts on residential properties from construction compounds including visual impact, noise, and light pollution;
 - d) A written procedure for dealing with complaints regarding construction or demolition;
 - e) Measures to control the emission of dust and dirt during construction (including any wheel washing facilities);
 - f) Programme of work for demolition and construction phase;
 - g) Hours of delivery and construction working;
 - h) Details of lighting to be used;
 - i) Highway signage/ haulage routes.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The submitted details shall include:

- i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
- ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved details.

- 6) Development shall not commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:
 - i) details of proposed crossings of the highway verge;
 - ii) retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
 - iii) measures for cleaning of site entrances and the adjacent public highway;
 - iv) the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway; and
 - v) construction vehicle routing.
- 7) Prior to the occupation of the development hereby permitted, the approved means of enclosure as shown on drawing 22558-12 Rev B Site J Site Plan and Section amended plan dated 10.10.23 shall be completed in accordance with the approved details. All means of enclosure shall be retained thereafter.
- 8) Prior to the occupation of the dwellings hereby permitted, the vehicular access, parking and turning requirements and visibility splays for the dwelling shall have been constructed in accordance with the approved plan 22558-12 Rev B Site J Site Plan and Section amended plan 10.10.23 and shall have been brought into use. The vehicular access, parking and turning provision shall be retained and be capable of use at all times thereafter.
- 9) Prior to the first occupation of each dwelling hereby permitted, details for that dwelling shall be submitted to and approved in writing by the local planning authority of either:
 - a) Evidence that provision of onsite access to broadband infrastructure providers shall be made during the construction process to allow the providers to install the necessary broadband infrastructure; or
 - b) Evidence, following contact with broadband infrastructure providers, that it is not practicably or viably possible to install broadband infrastructure to achieve superfast (as defined by Government standards) fibre broadband connectivity.

- 10) Prior to the first occupation of the development hereby permitted, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees, shrubs and hedgerows on the land, identify those to be retained and set out measures for their protection through the course of development. The scheme shall include details of all planting, seeding or turfing, the approved details of which shall be carried out in the first planting season following the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development [or relevant phase of development] shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 12) Only foul drainage shall be connected to the public sewer.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no structure or object of any kind shall be erected or placed and no trees, bushes or other plants which exceed 1m in height shall be planted or permitted to grow within the visibility splay as shown on approved plan 22558-12 Rev B Site J Site Plan and Section amended plan 10.10.23.
- 14) Before the development is first occupied, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority. All landscaping shall be managed and maintained thereafter in accordance with the approved landscape management plan.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no openings shall be installed in the gable elevations of dwellings on plot numbers 1 and 5.

END