



# Appeal Decision

Site visit made on 4 July 2024

by **S Brook BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 6 August 2024**

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**Appeal Ref: APP/K0940/W/24/3339779**

**Pine Trees, Fernleigh Road, Grange-over-sands, Cumbria LA11 7HG**

- 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 Mrs Taylor against the decision of Westmorland and Furness Council.
  - The application reference is 2023/1026/FPA.
  - The development proposed is a dwelling with associated works.
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## Decision

1. The appeal is allowed and planning permission is granted for a dwelling with associated works at Pine Trees, Fernleigh Road, Grange-over-Sands, LA11 7HG in accordance with the terms of the application, reference 2023/1026/FPA, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. A revised site plan showing additional landscaping has been provided, which the appellant indicates was provided to the Council prior to determination. This has not been confirmed or disputed by the Council. In substance, the revisions to the proposal would not result in a different application and the Council has had the opportunity to respond to it, as well as the appellant's associated comments, at the appeal stage. There are no interested parties in this case. As such, my consideration of this revised plan would not prejudice any parties and so, I have determined the appeal on this basis.

## Main Issues

3. The main issues are (a) the effect of the proposed development upon the character and appearance of the area, which includes the Grange over Sands Conservation Area (GoSCA), (b) the effect of the proposed development upon the living conditions of occupiers of the host property Pine Trees, with particular regard to outdoor amenity space, and (c) whether the proposal delivers biodiversity net gain and suitable replacement tree planting.

## Reasons

### *Character and Appearance*

4. The appeal site comprises part of the garden of Pine Trees, a detached bungalow that lies on the corner of Fernleigh Road and the B5277, the latter being a principal route through the GoSCA. The appeal site includes a number of large trees, set behind a stone wall. Land levels rise notably to the north and so the appeal site is formed from rising land extending away from the host

dwelling. The surrounding area is suburban in character, comprising a mix of house styles and sizes, some with large plots such as those extending north, and some more tightly arranged, such as those to the east. Properties are often orientated to take advantage of views of the coast. The set back of some dwellings within their individual plots, as well as some undeveloped pockets, allow for mature trees and planting that gives the area a pleasant verdant character.

5. The appeal site lies within the Central Area of the GoSCA according to the Council's Character Appraisal<sup>1</sup> (CA). The CA notes that the area is dominated by a number of roads arranged along the level contours of the hillside, which provide significant outward vistas, while creating an appreciably tiered or stacked appearance to the pattern of buildings on the hillside when viewed from below. The building density relating to the appeal site is described within the CA as more open and increasingly suburban beyond the commercial parts of Fernleigh and Kents Bank Roads to the north.
6. Fernleigh Road, and its offshoot, Rockland Road, are described within the CA as having a discernable trait in that the west side of the street is chiefly given over to larger houses and villas, set some way back from the road in substantial grounds, while the east side contains mostly smaller houses and cottages, much closer to the road within far tighter plots. The area is described as being characterised by an ornately decorated architecture that epitomizes the economic confidence of the late Victorian and Edwardian eras, with a widespread eclecticism visible in the style and form of buildings, homogenised by a narrow palette of mostly local materials. Fernleigh and Rockland Roads are acknowledged for their significant number of unlisted buildings, which make a positive architectural contribution to the special interest of the conservation area. Mature trees are also recognised in the CA as adding further interest to this part of the GoSCA.
7. Based on this assessment, I consider that the significance of this part of the GoSCA derives in large part from the development and arrangement of these late Victorian and Edwardian architecturally decorated properties, which provide architectural interest, while also evidencing the historic development and prosperity of the town as a visitor destination during that period. Mature trees make a positive contribution to the more verdant character of the area.
8. There is no dispute between the main parties that the design of the proposed dwelling would be acceptable, given that it references the traditional Victorian properties along Fernleigh Road. The use of rough cast render with local stone facing materials and a slate roof would reflect the material palette of the area. Concerns are raised with the use of grey aluminium windows and doors, which would not be typical of the traditional Victorian properties that the appeal scheme references. The Council considers that this could be resolved through the imposition of a suitable condition, and I have no reason to disagree. As such, subject to a condition to secure precise details of materials, the design of the proposed dwelling would adequately preserve the character and appearance of the GoSCA.

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<sup>1</sup> Character Appraisal for the Grange-over-Sands Conservation Area, dated August 2006

9. While the proposed dwelling would not be set back from the road to the same extent as dwellings further north along Rockland Road, it would achieve a similar set back distance to the neighbouring dwelling directly north at Heather Glen, and it would be separated from this property by approximately 16m, which does not appear to be dissimilar to the side separation achieved by other dwellings extending north. This spacing would allow the retention of some mature trees to the east and north of the proposed dwelling, and it would share the same orientation as the dwellings positioned to the west of Fernleigh Road and Rockland Road. It would adequately reinforce the tiered arrangement of development that is typical of the area.
10. I have considered the size of the subdivided plots for both the proposed and the host dwelling. In this regard, the maps accompanying the CA usefully indicate the plot sizes to the surrounding area and to my mind, neither the proposed plot, nor the retained plot for the host dwelling would demonstrate a resulting plot size that would be notably at odds with those in the surrounding area. The proportion of built form to garden in each resulting plot would not be excessive, and while the existing bungalow would lose a large part of its garden, this is a modern style of dwelling that differs in appearance from those traditional properties further north in any event.
11. I accept that the proposed dwelling would be sited close to the host bungalow, with minimal separation achieved, which would not necessarily be characteristic of other properties to the west of Fernleigh and Rocklands Road, as noted in the CA. However, the proposed dwelling would appear distinct from the host property due to its position at a higher level, while a newly planted laurel hedge would provide some intervening landscaping. Further, where the host bungalow extends up to what would comprise the shared boundary, it is formed by an attached garage that has a lower roof height than the main bungalow and is set back. As a result, views are available over it, which would provide a degree of openness between the host dwelling and the proposal. For these reasons, I do not consider that the resulting development would appear cramped.
12. Trees make a positive contribution to the character of the area and the significance of the GoSCA. This is provided through the set back of properties, allowing for front gardens with mature trees and planting, as well as larger plots where trees are visible between buildings. The proposed dwelling would necessitate the removal of a number of mature trees which presently provide a verdant backdrop to the existing dwelling and are visible in public vantage points in and around the site, positively contributing to the verdancy of the area. Nevertheless, a proportion of trees would be retained, including several mature, higher quality category B trees, positioned to the front and side of the proposal. As such, the appeal scheme would not erode tree cover within the site or wider area unacceptably. The proposal would provide a new residential plot with mature landscaping and some new planting, while the host property would retain existing landscaping to the south and west. This would adequately preserve the verdant character of the GoSCA.
13. For these reasons, the proposed development would not harm the character and appearance of the area. Having had regard to the duty under section 72 of the Act<sup>2</sup>, the proposal would adequately preserve the character and appearance

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<sup>2</sup> Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.

of the GoSCA. It would comply with Policies CS1.1 and CS8.10 of the South Lakeland Core Strategy<sup>3</sup> (CS), and Policies DM1, DM2, and DM3 of the Local Plan Development Management Policies<sup>4</sup> (LP), which collectively and amongst other matters, require high quality, appropriate design which retains distinctive character, including by incorporating built and natural features that create a positive contribution to sense of place, enhancing the existing built environment by responding to a site's locational context and local and settlement character, while safeguarding, and where appropriate, enhancing all heritage assets and their settings.

14. Further, the proposal would meet the requirements of the National Planning Policy Framework (the Framework) in terms of requiring new development to be sympathetic to local character and the surrounding built environment, adding to the overall quality of the area, while conserving heritage assets in a manner appropriate to their significance.

#### *Living Conditions*

15. The appeal scheme would result in a substantial reduction in the size of the garden space associated with the host property. However, to the front of the existing bungalow, there is a raised patio accessed directly from a small sunroom, as well as a reasonably sized lawn. While this area lies adjacent to the road, it sits at a higher ground level, bound by a maturing laurel hedge, which together, provide a greater degree of privacy than might be expected. To the side, adjoining its western boundary, the host dwelling would retain a terraced area that provides external seating, outdoor cooking facilities and wood store, as well as facilities for drying clothes, directly accessed from the house. This area is reasonably sized and private. In combination, these areas would retain an acceptable level of outdoor amenity space for the occupiers of Pine Trees.
16. As a result of the proposal therefore, satisfactory living conditions for the occupiers of the host property, Pine Trees, would be retained with regards to outdoor amenity space. The proposal would therefore comply with CS Policy CS 1.1 and LP Policies DM1 and DM2, which collectively require high quality and appropriate design that meets existing needs, delivering an acceptable level of amenity for existing and future users through the provision of adequate public, private and shared spaces. Further, the proposal would meet the requirements of the Framework where it seeks to create places that promote health and well-being, with a high standard of amenity for existing and future users.

#### *Biodiversity Net Gain and Replacement Tree Planting*

17. CS policies CS1.1 and CS8.4 require development to enhance the resilience of the natural environment, and protect, enhance and restore the biodiversity of land. LP policy DM1 requires that all developments secure adequate measures to avoid and mitigate for any potential impacts and build in net gains for biodiversity, while LP policy DM4 also specifies net gains for biodiversity, unless it can be demonstrated that it is not possible. LP policy DM4 requires that these gains are quantified and clearly demonstrated, albeit no method of quantification is included. It states that gains can be sought through the

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<sup>3</sup> South Lakeland Local Development Framework Core Strategy, Adopted 20 October 2010

<sup>4</sup> Local Plan Development Management Policies (For South Lakeland District outside the Lake District and Yorkshire Dales National Parks), Adopted 28 March 2019.

provision of new assets, or the enhancement of existing assets. Measures could include habitat creation, improved management or restoration of existing habitat, living/green walls, roofs and roof gardens, nest boxes, hedgehog highways, swift bricks, bat boxes, wildflower areas, ponds, watercourses or wetland areas, and fruit trees. The supporting text to this policy advocates a pragmatic approach.

18. Additionally, LP policy DM4 sets out that new development should positively incorporate new, and protect and enhance existing trees, unless there are clear and demonstrable reasons why their removal would aid delivery of a better development overall. Proposals that would result in the loss or deterioration significant trees, such as those within Conservation Areas, are only permitted where an overriding need for the development and its benefits in that location clearly outweigh the loss or harm; and compensatory planting at an appropriate ratio is provided.
19. The Council's decision notice states that the proposal has failed to demonstrate biodiversity net gain (BNG) or an acceptable level of arboricultural mitigation. The revised site plan provided includes 6 replacement trees, however the Council's OR states that there would be no replacement tree planting, indicating that the revised site plan, was not considered at that stage. The appellant considers that the revised site plan would achieve suitable compensatory tree planting, as well as a net gain in biodiversity. Within its Statement of Case, the Council provides no comment on the revised site plan in terms of its adequacy in providing compensatory tree planting or BNG.
20. The appeal scheme would require the removal of 6 individual trees and one group of trees, which are a mix of species. The submitted Pre-Development Arboricultural Report, dated October 2023 indicates that the trees requiring removal fall within Category C - poor quality trees with limited life expectancy that should not be a constraint to development.
21. While these trees are within a conservation area, for the reasons outlined in the first main issue, I have concluded that the loss of these trees would preserve the character and appearance of the GoSCA and so they are not significant in this context. Therefore, it is not necessary in these circumstances for it to be demonstrated that there is an overriding need for the development and its benefits in this location. All higher quality trees would be retained and the report states that there would be minimal impact on important trees.
22. The proposed new trees would be a mix of native species, supplemented by native woodland plants and grasses and the provision of three bird boxes. While newly planted trees would not offer the same visual amenity value as mature trees for some time, these newly planted trees would be set amongst retained mature trees and they would most likely offer a longer lifespan than the Category C trees to be removed. As such, I consider that although the proposal would result in the loss of some poor quality trees, compensatory native tree planting at a ratio suitable for this site would be provided.
23. The extent of woodland plants and grasses proposed has not been detailed on the plans. However, these could be secured by the imposition of a suitable condition, thereby making some provision for new habitat creation. Along with the proposed bird boxes, the proposal would deliver a number of those measures suggested in LP Policy DM4, in order to enhance and increase the functionality of this small area of green infrastructure.

24. In combination, these measures would aid the delivery of a better development overall. Nevertheless, a quantified assessment of whether the proposal would deliver BNG has not been provided and so, I cannot be certain from the evidence before me that the proposal would deliver a net gain in biodiversity. As such, there would remain some conflict with LP policies DM1 and DM4 in this regard.

### **Other Matters**

25. The delivery of a single dwelling within an accessible location would make a small but positive contribution towards the Government's objective of significantly boosting the supply of homes, providing additional choice in the housing market, along with delivering some support to the local economy during the construction stage, and providing support for local services and facilities in the longer term. Reference is also made to the inclusion of solar panels, an air source heat pump and electric vehicle charging. These are benefits of the proposal that attract modest weight.

### **Planning Balance**

26. I have not identified any conflict with those development plan policies relating to matters of character and appearance or living conditions. I have identified some conflict with LP policies DM1 and DM4, as the proposal does not provide the detailed quantitative assessment needed to demonstrate that it will deliver BNG. Nevertheless, for the reasons set out above, the proposal would deliver an appropriate level of replacement tree planting for this site, as well as some additional measures for habitat creation, aiding the delivery of a better development. As such, I afford the identified conflict with LP policies DM1 and DM4 only limited weight.

27. The proposal would contribute towards the supply of housing in a suitable location, incorporating some renewable energy measures. Additionally, it would provide some support to the local economy, as well as local services and facilities. On balance, I find that these other material considerations are sufficient to outweigh the limited weight afforded to the conflict I have identified with the development plan.

### **Conditions**

28. I have considered the conditions put forward by the Council with reference to the Framework and Planning Practice Guidance. The appellant has had the opportunity to comment.

29. I have imposed a condition which concerns the statutory time limit and in the interests of certainty, I have also imposed a condition concerning the approved plans and documents. This includes the Pre-Development Arboricultural Report on the basis that it details the works to be undertaken to the trees on site and the methods for protecting those trees to be retained, during construction.

30. A pre-commencement condition is proposed requiring details of finished floor levels. Securing details of finished levels or contours is reasonable given the topography of the site and because those shown on the plans are marked as indicative only. This is in the interests of the character and appearance of the area. This information would be required to inform the early stage of construction, and so a pre-commencement condition is necessary. The

appellant has accepted this pre-commencement condition, as required by Section 100ZA(5) of the Act.

31. In the interests of the character and appearance of the area, I have also imposed a condition to secure details and samples of external materials to be used.
32. I agree with the Council that further landscaping details are required, for the reasons set out above. These details should include the means of enclosure for the site and hard surfacing materials, also necessary in the interests of the character and appearance of the area.
33. However, details of the car parking layout, and other vehicle and pedestrian access and circulation areas are unnecessary as this information has been provided on the submitted plans. I have not been provided with any specific reasoning as to why the details of all minor artefacts and structures, or underground cables or pipelines would be necessary to make the development acceptable. Additionally, further details of trees to be retained and the method of protection are unnecessary as they are provided in the approved document Pre-Development Arboricultural Report.
34. A condition to secure retention of parking provision would be reasonably required to meet the needs of future occupiers of the development.

### **Conclusion**

35. For the reasons outlined above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

*S Brook*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) Unless otherwise specified by separate condition, the development hereby permitted shall be carried out in accordance with the following approved plans and documents: Location Plan ADAL 198/00-01, Proposed site plan and site sections ADAL 198/10-02C, Proposed Block Plan ADAL 198/10-10, Proposed Sections ADAL 198/11-01A, Proposed Elevations ADAL 198/12-01B, Proposed Floor Plans ADAL 198/00-03B, Pre-Development Arboricultural Report, Treescapes Consultancy Ltd, 27<sup>th</sup> October 2023.
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building and hard landscaped surfaces, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No development above ground level shall take place until details and samples of the materials to be used in the construction of the external surfaces of the dwelling 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 and samples.

- 5) No development above ground level shall take place until full details of both hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. These details shall include all means of enclosure, hard surfacing materials, tree and planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, tree and plant sizes and proposed numbers/densities and an implementation programme. The agreed scheme shall be carried out as approved to the agreed timetable. Any trees/shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees/shrubs of similar size and species to those originally required to be planted.
- 6) The proposed parking and turning areas shall be laid out as approved and retained as a parking and turning area for the occupants of the proposed dwelling.