

Appeal Decision

Site visit made on 27 August 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th September 2024

Appeal Ref: APP/F0935/W/24/3343278

Land adjoining Lakeland View, Chaucer Avenue, Egremont CA22 2FE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Wayne Dunn against the decision of Cumberland Council.
 - The application Ref is 4/23/2184/0F1.
 - The development proposed is detached single storey 3 bed dwelling and new access to highway.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has confirmed that the emerging Copeland Local Plan 2021-2038 (ELP) has been submitted for examination by the Planning Inspectorate and the appointed Planning Inspector has identified a number of amendments or 'modifications' that are required in order to ensure the ELP is sound. The consultation on the Main Modifications to the ELP is now complete and consequently, the Council set out that significant weight can also be afforded to the policies of the ELP. The ELP has not been formally adopted and does not therefore form part of the statutory development plan. Consequently, I only afford the relevant policies weight as material considerations insofar as they are consistent with the National Planning Policy Framework (the Framework).

Main Issues

3. The main issues of the appeal are the effect of the proposed development on:
 - The character and appearance of the site and surrounding area;
 - The living conditions of existing and future occupiers of adjacent properties having regard to outlook; and
 - Flood risk.

Reasons

Character and appearance

4. The appeal site relates to a small, grassed area, located within a prominent location at the junction of three roads to the northwest of Egremont fronting onto Chaucer Avenue. It lies within a residential area and there is a large, detached modern dwelling located to the direct west which has been granted planning consent and is almost complete. To the north and east is the James Park Homes site comprising single storey dwellings and to the south is the existing highway.
5. The proposed development seeks planning permission for a single storey three-bedroom dwelling which would be located within the western section of the plot with a new access from a central position on the southern boundary of the site.
6. The appeal site has a shallow depth at its eastern boundary and as a result, it has an irregular shape which constraints the overall size and layout of the plot. The shape and size of the plot would mean that the proposed dwelling along with the forecourt/parking provision would need to occupy a substantial section of the site. The overall positioning and siting of the dwelling would sit close to the site boundaries and neighbouring properties particularly those to the north on the James Park Home site. This would result in a cramped form of development which would appear overly prominent in this location.
7. I accept that the dwelling to the west is a larger and more modern dwelling. However, the constrained size and shape of the appeal site would result in the dwelling appearing as an over intensive use of the plot at odds with the scale and form of adjacent properties which would be highly visible from a number of public viewpoints. I cannot agree that the area of land is similar to the adjoining site to the west where the large, detached dwelling is sited as both of these plots differ in terms of size and configuration. Soft and hard landscaping would also not negate the perception of overdevelopment on this site as it would still be a dominant and highly visible addition in the street scene where it would be read alongside its immediate setting.
8. There is a variation in form and design of dwellings nearby, including the large detached modern dwelling to the west, the single storey dwellings to the north and east on the James Parks Home site, and two-storey terraced and semi-detached properties on the surrounding estates along with the use of render. That said, the proposed flat roof form and materials proposed would still not reflect the character of the surrounding area and would relate poorly to the immediate adjacent buildings particularly that to the west.
9. I am aware that the development would utilise a poorly maintained area of grassland although this would not justify development which would be harmful to the visual amenity of the area. The site across the road is understood to have been granted planning permission for residential development although the specific location along with the proposals are not

comparable to the appeal I am considering and thus has no bearing on this appeal.

10. For the above reasons, I conclude that the proposed development would unacceptably harm the character and appearance of the site and surrounding area. As such, it would be contrary to Policies ST1 and DM10 of the Copeland Local Plan Core Strategy and Development Management Policies DPD, 2013 (LP) and Policy DS6PU of the ELP which together, amongst other matters, requires development proposals to respond positively to the character of the site and the immediate and wider setting and enhance local distinctiveness. For the same reasons, the proposed development would also be contrary to the provisions of the Framework relating to achieving well-designed and beautiful places.

Living conditions

11. I am aware of the changes made to the scheme from previous proposals and the reasoning behind such changes in terms of mitigating against harm. However, it is understood that the proposed dwelling now includes a larger footprint and brings the development much closer to the James Park Home site particularly No 6 located to the direct north of the appeal site. The proposed development includes excavation of the site to reduce the ground level by 0.6 metres with the erection of a 2-metre-high solid timber fence along the northern boundary with the James Park Homes site.
12. The proposed fence would be located within very close proximity of the rear kitchen window and door of No 6 with the fence being tall in height to mitigate against overlooking. The close relationship that would exist between the fencing and No 6 would mean that the proposed fence would dominate the outlook from the rear of No 6 resulting in an uninviting outlook. This would unduly harm the living conditions for the existing and future occupiers of No 6. The existing occupier may have a net curtain hung although this would not alter my findings as this could be removed at any time.
13. The Council set out that the proposed siting of the dwelling would not achieve adequate separation distances, in line with Policy DM12 of the LP. The section drawing does however demonstrate that views of the dwelling itself would be limited from No 6 as it would sit at a lower ground level and be separated by a tall fence. The fence would also help to screen views of the dwelling from other properties to the rear and thus this element is of lesser concern to me. This would not however alter the position in relation to the proposed fence and the relationship with No 6. It is not unusual for occupiers to spend significant time utilising the kitchen area whereby in this case, the outlook would be compromised to an unacceptable degree.
14. My attention has been drawn to the relationship of the existing large, detached dwelling to the west and Nos 6 and 7 James Park Home in terms of separation distances. However, the relationship that exists appears very different to the appeal before me which I am in any event, considering on its own merits. The appellant claims that the proposed timber fence could be built at any given time although this is a theoretical position only and there is no substantive evidence to suggest that there is any reasonable likelihood for

this to occur. This matter has not therefore affected my findings in relation to the living conditions of existing and future occupiers of No 6.

15. For the reasons given above, I conclude that the proposed development would harm the living conditions of existing and future occupiers of No 6 located to the rear of the appeal site having regard to outlook. It would therefore be contrary to Policies ST1, DM10 and DM12 of the LP and Policy DS6PU of the ELP which together, amongst other matters, ensures development provides or safeguards good levels of residential amenity. For the same reasons, the proposed development would also be contrary to the provisions of the Framework relating to achieving well-designed and beautiful places.

Flood risk

16. I understand that a section to the western boundary of the site lies within Flood Zone 2 and therefore the development is supported by a Flood Risk and Drainage Statement. This statement however was produced many years ago as part of the scheme for the adjacent site which was granted planning permission for a detached five-bedroom dwelling, with the current appeal site identified as a garden area. I cannot therefore be certain from this information that the proposed development would not have a detrimental impact on the flood risk within the site or the surrounding area particularly given the proposed excavation of the land which is not considered within the assessment.
17. The assessment may have been sufficient for the dwelling to the west, and I note the distances from the watercourse and flood defence works that have taken place. However, without sufficient evidence relating to the site itself and the current proposals, then I cannot firmly conclude that the proposed development would not have a detrimental impact on the flood risk within the site or the surrounding area even taking into account United Utilities response and suggested planning conditions. Residential dwellings may have been approved nearby, although this would not alter my assessment as I am considering the appeal scheme based on its site-specific merits.
18. Taking a precautionary approach to this issue, in the absence of evidence and in light of my findings of harm elsewhere, I conclude that it has not been satisfactorily demonstrated that the proposal would not have a detrimental impact on flood risk. Consequently, the proposed development would not comply with Policies ST1, ENV1, and DM24 of the LP and Policies DS8PU and DS9PU of the ELP which together, amongst other matters, ensures that development in the Borough is not prejudiced by flood risk. For the same reasons, the proposed development would also be contrary to the provisions of the Framework relating to meeting the challenge of climate change, flooding, and coastal change.

Other Matters

19. I appreciate the appellant's intentions for occupation of the property and commitment to the area and local community whilst also recognising the arrangements for the dwelling to the west which could provide for family

occupancy. Such matters would not however alter my findings in relation to the above main issues. There has been a level of support shown for the scheme including residents from the James Park Home site although this would not mean that the development would not be harmful and thus would not weigh in favour of the appeal.

Conclusion

20. The proposed development conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination that would outweigh the identified harm and associated development plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR