



Appeal Decisions

Site visit made on 7 October 2024

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 26th November 2024

Appeal A Ref: APP/K0940/W/24/3344040

Land between East Larches and Lynwood, Beacon Edge, Penrith CA11 8BN

- 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 S Atkinson against the decision of Westmorland & Furness Council.
 - The application Ref 23/0756, dated 2 November 2023, was refused by notice dated 18 March 2024.
 - The development proposed is a dwelling.
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Appeal B Ref: APP/K0940/W/24/3344041

Land between East Larches and Lynwood, Beacon Edge, Penrith CA11 8BN

- 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 S Atkinson against the decision of Westmorland & Furness Council.
 - The application Ref 2023/1058/OPA, dated 29 November 2023, was refused by notice dated 18 March 2024.
 - The development proposed is residential development (up to five dwellings).
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Decisions

1. The appeals are dismissed.

Preliminary Matter

2. The applications are in outline with all matters reserved except access and landscaping. Whilst each application included an indicative site layout with illustrative landscape visuals, these are only illustrative of how the schemes might look. The appeals have been considered on this basis.

Main Issues

3. The main issues are:
 - whether the proposals should be permitted having regard to the current requirement for housing, the settlement strategy of the development plan, the relationship of the site to Penrith and the character and appearance of the area; and
 - whether the both proposals, in combination with other plans and projects, would be likely to adversely affect the integrity of the River Eden Special Area of Conservation (SAC).

Reasons

Principle of development

4. Proposal A is for a single dwelling and Proposal B for up to five dwellings on an irregular 0.9 ha field on the northern side of Beacon Edge where the outskirts of Penrith slope up towards Beacon Hill. Access would be from Beacon Edge close to the existing access to 'Beauhill' and the site extensively landscaped with woodland, other treeplanting, wildflower and amenity grass areas.
5. Penrith is defined as the district's 'main town' by Policy LS1 of the Eden Local Plan 2018 (the ELP) where Policy LS2 proposes about 50% of the new housing planned in the ELP is to be located. To deliver this, various sites are allocated mainly to the east and north of the town. However, no built-up area boundary is defined for the town, leaving the question of whether sites on the edge of the town are suitable for development a matter of planning judgement on a case-by-case basis. Outside the town, in 'other rural areas', Policy LS1 restricts development to the re-use of rural buildings, affordable housing on exception sites and if other policies apply, none of which are relevant here.
6. The other policy which provides some guidance is ELP Policy DEV5 which requires new development to demonstrate a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area.
7. Beacon Edge is a long west-east road on the northern side of the town which initially forms the edge of the main built-up area but becomes more rural in character past Fell Lane firstly with some sporadic development and then unambiguously running through open countryside as far as the A686. The appeal site lies in the section with sporadic development, indeed just to the west lie Beauhill and East/West Larches, well-established houses in good sized grounds, and to the east lies the substantial property Lynwood set back amongst trees with Lynwood Cottage on the road frontage adjacent to its long access driveway.
8. However, this sporadic development is almost exclusively on the northern side of Beacon Edge, not the southern, where only one isolated house, Greyfell, breaks the otherwise uninterrupted long-distance views across the open fields which slope down to the south. The appeal site lies well beyond Greyfell and although the two fields beyond are identified as a 'potential location for future growth' by ELP Policy PEN1, this is only for consideration if housing land supply falls below expectations. As at March 2023 the Council could demonstrate a healthy 7.14 years housing land supply¹. The availability of the 'potential location' for housing is also in some doubt. The appeal should therefore be determined on the basis of an open site to the south with the nearest housing some 200 m away down the slope which minimises its visual impact.
9. The appellant argues that it is the woodland to the north and east of the site with Lynwood Cottage that defines the edge of the settlement, but the latter is barely noticeable from the road behind a tall frontage hedge with the woodland behind screening Lynwood². The open field which forms the appeal site thus appears to be part of the countryside complementing the open land to the

¹ In Eden district, although the committee report dated March 2024 puts the figure at 5.2 years supply.

² Drone views are not seen from the ground.

south. To the west, apart from the recent redevelopment Mulberry Gardens³, the housing appears well-established with pockets of undeveloped land (notably in front of Nandana) until No 33 Beacon Edge, so it is not clear if even this area is treated as part of the town for planning policy purposes and thus seen as suitable for infilling. Neither of the main parties provide a planning history of this area. The town's street lighting commences near Mulberry Gardens but the 30 mph speed limit only begins between Greyfell and Fell Lane, well away from the appeal site.

10. In any event, development of the relatively prominent 85 m wide appeal site with either a single or group of up to five dwellings, however well-designed and landscaped, would fundamentally change its currently open, unspoilt character, extending built development further along Beacon Edge. The visual impact of new buildings would be increased due to the sloping site which noticeably rises up from the road. The overall result would be a significant erosion of the existing attractive character of this distinctive fringe of town location.
11. The site fronts onto a well-used footway which runs back to the built-up area of Penrith and is within walking and cycling distance of the wide range of services and facilities in the town, including public transport. However, this would be the case for many sites on the periphery of the town and does not overcome the character and appearance concerns in relation to the site.
12. For these reasons neither appeal proposal should be permitted having regard to the current requirement for housing, the settlement strategy of the development plan, the relationship of the site to Penrith and the character and appearance of the area. The proposal would conflict with ELP Policy LS1 which defines the development appropriate within and outside the main town of the district. It would also conflict with Policy DEV5 which requires development to show a clear understanding of the form and character of the area concerned, complementing and enhancing it, which would not be the case here.

River Eden SAC

13. The site lies within the catchment area of the River Eden SAC where nutrient pollution arising from further overnight accommodation, unless mitigated or treated, is likely to adversely affect the integrity of the habitats concerned. The proposal is for the foul water from the development to be treated by a package treatment plant discharging to a drainage field on site, and thus low risk to the SAC provided certain detailed conditions are met⁴. Whilst most of these conditions appear to be satisfied, the Council are not certain that the slope and groundwater depth of the drainage field would be suitable. The appellant disputes this but given the conclusion in relation to the main issue it is not necessary to pursue the matter further.

Conclusion

14. The proposals would provide up to five additional dwellings which would have social and economic benefits for the town and make a useful contribution to local housing needs. The dwelling(s) would be built to high environmental standards and the site has only limited agricultural value. The ELP relies on the delivery of 50+ windfall sites each year. Furthermore, on 30 July 2024, a written ministerial statement, draft versions of a revised National Planning

³ Which replaced a former nursing home and thus was previously developed land.

⁴ Conditions a) – g) of Annex F of Natural England's Water Quality and Nutrient Neutrality Advice Note.

Policy Framework and standard method for assessing local housing need were published, all of which place greater importance on the need to deliver more housing. Set against this, the draft policies are subject to consultation and their definitive implications not yet known.

15. In this instance these material considerations are outweighed by the clear findings in respect of the main issue and the associated conflict with the development plan. The appeals should therefore be dismissed.

David Reed

INSPECTOR