



Appeal Decision

Site visit made on 9 July 2024

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 31 July 2024

Appeal Ref: APP/F0935/W/24/3342913

Field 911, Mill Street, Frizington, Cumbria CA26 3SJ

- 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 Laurence Crayston against the decision of Cumberland Council.
 - The application Ref is 4/23/2036/OF1.
 - The development proposed is a two bedroom cottage (resubmission of withdrawn application 4/22/2447/OF1).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development is described in the application form as "Proposed two bedroom cottage on a brownfield site. Barn A would have solar panels on the South facing roof to produce power, the property would also utilise a ground source heat pump with the underground pipework to the North of the cottage. An underground tank would also be built behind the retaining wall to the West of the site, harvesting rainwater for general use. It will have a grey dash finish to the walls and roof tiles to blend in with the existing barns. The access would be through the old mine entrance onto the 30mph highway with vision of splays of >60m each way." On the basis of amended plans and in the interests of clarity, I have adopted the description from the decision notice in the banner heading above.
3. The emerging Copeland Local Plan 2021-2038 (eLP) is at an advanced stage of preparation. Consequently, significant weight can be attached to the emerging policies. The parties have been provided with the opportunity to comment on the implications of this to their cases through the appeal process. Therefore, I am satisfied that the interests of neither party would be prejudiced by my taking the emerging policies into account.

Main Issues

4. The main issues are:
 - i) Whether the location is suitable for new residential development, having regard to local and national policies for housing; and
 - ii) The effect of the proposal on the character and appearance of the area.

Reasons

Location

5. The appeal site is a large parcel of sloping land adjacent to Mill Street at the western edge of Frizington. It adjoins a terrace of residential dwellings but is otherwise surrounded by undeveloped farmland. It is in the countryside immediately beyond the settlement boundary.
6. Policy ST2 of the Copeland Local Plan 2013-2028 Core Strategy and Development Management Policies DPD Adopted December 2013 (the CLP) sets out the Council's spatial development strategy. It permits appropriately scaled development in Local Centres, including Frizington, that helps to sustain services and facilities for local communities. Conversely, it seeks to restrict development outside of defined settlement boundaries to that with a proven requirement for the location, including agricultural workers dwellings, replacement dwellings, affordable housing and the conversion of rural buildings to residential use.
7. Policies DS3PU and H4PU of the eLP set out the Council's emerging spatial development strategy. This similarly seeks to focus new development in accordance with the hierarchy of settlements. In this regard, Frizington is identified as a Local Service Centre which supports the borough's towns and where development will be focussed on moderate housing allocations, windfall and infill development. Outside of settlements, eLP policy DS4PU seeks to restrict new residential development except in specific circumstances.
8. The appeal site is directly adjacent to the edge of Frizington, being just beyond the neighbouring row of terraced properties. The existing highway access is contiguous with the footway to the front of the terrace and that continues towards the centre of Frizington. Future occupiers would therefore be able to access shops, services and public transport in the settlement via a safe pedestrian route. On this basis, the proposal would be in an accessible location that offers realistic alternatives to private journeys.
9. The planning application form indicates that the proposal would be a self-build dwelling. However, there would apparently be little guarantee that it would be self-build or custom build housing and it would not demonstrably meet an identified need for such housing in this area. Irrespective, the proposal would not be a type of housing with a proven need for a location outside of a settlement boundary, as set out in the relevant CLP and eLP policies. Moreover, the Council can demonstrate a 5-year housing supply of deliverable housing sites (5YHLS) and the delivery of housing has not been below 75% of the housing requirement over the previous three years.
10. Therefore, irrespective of its accessibility, I conclude that the location would not be suitable for the type of housing proposed, having regard to local policies for housing. The proposal would conflict with the housing aims of CLP policy ST2 and eLP policies DS3PU and DS4PU.

Character and appearance

11. The appeal site is a large expanse of predominantly undeveloped sloping land enclosed by mature hedgerows. It is accessed immediately adjacent to 53 Mill Street, from where the rough surfaced internal access rises from the road and curves round to serve the existing large utilitarian barns and the grassland

beyond. The slope above the existing built development supports low growing grassland, with wildflowers and invading brambles and scrub. The land around the settlement at this point is predominantly grazing land with mature hedgerows, scattered trees and woodlands.

12. There are 2 site layout plans, apparently the original plan and a revision that removes development that had been proposed in the zone of influence of the disused mine shaft. The amended plan shows a new highway access further away from 53 Mill Street. A new driveway would lead between the existing barns into a parking area enclosed by the barns, the dwelling and retaining walls. The sloping land would be excavated so that the dwelling would be at roughly the same ground level as the barns. On the basis of the change in ground levels across the site, a substantial quantity of soil would be excavated.
13. The revised site plan indicates ground levels across the site. However, the dimensions of the existing barns and the proposed dwelling and the distances between the built structures are not marked on the plans. The new access and driveway would cut across the slope but they are not illustrated in detail. The elevation plans are basic, as is the site section with the buildings not well detailed nor apparently to scale. While the scale is indicated on the plans, there is no scale bar nor indication of the size of the paper the plans were drawn on.
14. Notwithstanding, the plans illustrate that the dwelling would have an apparently similar footprint and it would be taller than the southernmost barn which is itself a substantially large building. While the existing roadside hedge screens the built development, a wide gap would be created for the new highway access. This would be closer to the barns than the existing access, with a resultant increase in the visibility of built development from the adjoining road. There would be a significant visual impact as a result of the substantial increase in the footprint and scale of built development, and the residential use with its lighting and associated domestic paraphernalia.
15. The cross section suggests that the height of the retaining wall would be only slightly taller than the single storey eaves of the dwelling. However, the plans suggest that there would be around a 5m change in ground level between the level of the barns, and therefore the dwelling, and the top of the retaining walls. Based on the apparent depth of the excavations, it seems likely that 3 of the building elevations would be in close proximity to overly tall retaining walls.
16. The dwelling would be finished in materials to match and blend in with the barns. However, the barns are utilitarian and with little apparent architectural merit. The dwelling would have an awkward and overly close relationship with the barns and the enclosing retaining walls. Notwithstanding it would be finished in materials to match the nearby terrace, neither the elevated siting of the dwelling away from the road nor its tall single storey form would relate well to the terraced dwellings which form a distinctive and strong settlement edge.
17. The barns were formerly used for agriculture, which is a typical rural use. The proposal however would not have the typical appearance of a rural farmhouse with farmstead buildings. It would be a somewhat urban form of development and the barns would apparently be put to residential use. The encroachment of residential development and the urbanising effect of the proposal would erode the rural farmed landscape around the settlement.

18. Even accepting there would be limited close views of it, it would not relate well to either the settlement edge or the wider rural landscape. Consequently, it would not contribute positively to local distinctiveness or sense of place. It would not be the creation of high quality, beautiful and sustainable buildings and places, which the National Planning Policy Framework (the Framework) identifies as fundamental to what planning should achieve. It would not be visually attractive as a result of good architecture or layout nor would it be the creation of an attractive or welcoming place. It would not add to the overall quality of the area.
19. The site is currently screened from close views by topography and boundary vegetation which the appellant intends to maintain. Even if temporary vegetation could be relied upon to screen development, there would be little guarantee that future occupiers would maintain the boundaries to hide the proposal from views. In any case, the boundary vegetation, particularly with the new access, would be less effective in terms of screening benefit overnight or during times of year that vegetation was not in leaf. The boundary hedgerows would not adequately mitigate the adverse visual impact.
20. Therefore, I conclude that the proposal would harm the character and appearance of the area. It would conflict with CLP policies ENV5, DM10 and DM26 and eLP policies H6PU and N6PU. These require, among other things, that proposals respond positively to their surroundings, having regard to the distinctive characteristics of the surrounding landscape including in terms of visual impact, size and arrangement of plots, scale and massing.

Other considerations and planning balance

21. The planning application was not refused on grounds relating to highway safety, ecology or landscaping. However, notwithstanding the evidence states that there are adequate visibility splays, these are not clearly illustrated for the existing nor the proposed highway access. There would be a loss of grassland, scrub and hedgerow to facilitate the development. No details of replacement planting, landscaping or the wider treatment of the residential curtilage, which would be the entirety of the appeal site, have been provided.
22. Solar panels would be fitted to the southernmost barn and the proposal would include rainwater harvesting and soakaways. The use of renewable energy and grey water would contribute to the sustainable use of resources for the purposes of mitigating climate change.
23. The description of the development in the application form refers to the site as being brownfield land. However, the evidence indicates that the site and the barns were most recently used for agriculture and the barns have been used to store agricultural equipment. For the purposes of the Framework, brownfield land is previously developed land, the definition of which excludes land that is or was last occupied by agricultural or forestry buildings.
24. The proposed development would be at least 24.5m from the recorded mine shaft entry and therefore outside of its zone of influence. Subject to the imposition of a planning condition removing permitted development rights for extensions or curtilage buildings within influencing distance of the mine entry, the proposal would not pose an unacceptable safety or stability risk. The site is not apparently contaminated but ongoing gas monitoring indicates that gas

- protection measures would be required as part of the detailed design of the dwelling. These are neutral matters.
25. I appreciate that the appellant is local to the area and he intends to occupy the proposal. However, it would not demonstrably be a self-build or custom build dwelling to meet an identified local need. Notwithstanding the appellant's desire for a dwelling in this location, based on the evidence before me his personal circumstances do not weigh in favour of the proposal.
26. Paragraph 11d of the Framework sets out the presumption in favour of sustainable development including where the policies which are most important for determining the application are out-of-date. As noted above, the Council can demonstrate a 5YHLS and the delivery of housing was not below 75% of the housing requirement over the previous three years. However, the identified housing need cannot be met within the adopted settlement boundaries and allocated sites. Therefore, the adopted spatial housing policies are out-of-date.
27. The Framework expects new homes to be well-located to help meet identified needs in a sustainable way, including in terms of communities, accessible services and facilities, and a genuine choice of transport modes. Rural housing should reflect local needs, including the need for affordable housing, and it should be located where it will enhance the vitality of rural communities and support local village services. Notwithstanding that the adopted settlement boundary is out of date, the aims of the emerging eLP housing policies are broadly consistent with the aims of the Framework in this regard such that significant weight can be attached to the conflict with these policies.
28. The Framework recognises the intrinsic character and beauty of the countryside. It emphasizes the need to create high quality, beautiful and sustainable buildings and places that add to the overall quality of the area and are sympathetic to the surrounding built environment and landscape setting. On the basis of consistency with the Framework, significant weight can be attached to the conflict with CLP policies ENV5, DM10 and DM26 and eLP policies H6PU and N6PU.
29. The proposal would be reasonably accessible in terms of shops, services and access to public transport. However, the proposal would not be affordable housing, a rural workers' dwelling or the conversion of a rural building. It would not be housing with a demonstrable need for a location outside of the settlement, and this weighs against the proposal to a significant degree. The harm to the rural character and appearance of the countryside attracts significant negative weight. The absence of details in relation to the provision of a safe highway access and biodiversity, albeit not a reason for refusal, weigh against the scheme to a modest degree.
30. One dwelling would make a negligible contribution to the Government's objective of significantly boosting the supply of housing. There would be limited economic benefits in the short-term during construction. The future occupation of one dwelling in this location would make a negligible contribution to the vitality of rural communities or support for rural shops and services. Overall, there would be limited economic and social benefits. The proposal would not be the re-use of suitable brownfield land within settlements for homes, and the previous agricultural use of the site does not weigh in favour of a new residential dwelling. Taking into account its scale and surrounding context, the climate change adaption features carry limited weight in favour of the scheme.

31. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

32. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.

33. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR