



# Appeal Decision

Site visit made on 9 July 2024

by **Sarah Manchester BSc MSc PhD MIEEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 22 July 2024

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**Appeal Ref: APP/F0935/W/24/3340681**

**Land Adjacent Belvedere, Cleator, Cumbria, CA23 3AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Gerry Coan against the decision of Cumberland Council.
  - The application Ref is 4/23/2388/001.
  - The development proposed is bungalow on site of former residential lodge.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal relates to an outline planning application with access, landscaping, layout and scale applied for. I have determined the appeal on this basis.
3. The application form describes the current use of the site as 'residential lodge within former domestic garden'. However, the lodge has been removed and the site has been substantially cleared.
4. The emerging Copeland Local Plan 2021-2038 (eLP) is at an advanced stage of preparation. Consequently, at least significant weight can be attached to the policies in the eLP. 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 determination of the appeal on this basis.

## Main Issues

5. The main issues are:
  - i) Whether the location is suitable for new residential development;
  - ii) The effect of the proposal on the character and appearance of the area; and
  - iii) The effect of the proposal on the living conditions of neighbouring residential occupiers.

## Reasons

### *Location*

6. The appeal site comprises a parcel of land associated with a small cluster of dwellings in the countryside between Cleator Moor and the River Ehen. A former residential lodge (planning permission ref 4/09/2152/0 for a temporary

- period until May 2012) has been removed and the site has been cleared. The site is not allocated for housing.
7. Policies DS3PU and H4PU of the eLP set out the Council's locational development strategy, which seeks to focus new development in accordance with the hierarchy of settlements in the borough. Cleator Moor is a key service centre, suitable for medium scale housing extensions, windfall and infill development. Outside of the settlement, eLP policy DS4PU seeks to restrict new residential development except in specific circumstances.
  8. The proposal would be roughly 220m from the edge of Cleator Moor, which is an easy walking distance. The footway along the intervening road provides a safe pedestrian route to the settlement. Future occupiers would therefore be able to access services and facilities, employment opportunities and public transport without the need for private car journeys.
  9. Nevertheless, the appeal site is conspicuously beyond the settlement boundary, and separated from it by undeveloped, vegetated land. The location is not well related to and it does not directly adjoin the edge of Cleator Moor. The proposal would be a new dwelling and it would not be the conversion of a rural building. Moreover, it would be market housing rather than an affordable dwelling or an essential rural workers' dwelling. Consequently, the proposal would not meet the eLP exceptions for new dwellings in the countryside.
  10. Therefore, I conclude that the location would not be suitable for new residential development, having regard to local policies for housing. The proposal would conflict with the housing aims of eLP policies DS3PU, DS4PU and H4PU.

#### *Character and appearance*

11. The site is within the Mid Ehen Valley, which separates Cleator Moor from the Lakeland fells and foothills. The area is characterised by undeveloped open countryside including the tree-lined corridor of the River Ehen, grassland fields with hedgerows, scattered trees and woodland. It is a sparsely developed landscape, with sporadic development including traditional rural farmstead groups and scattered rural housing.
12. The cluster of dwellings vary in terms of their sizes, styles and materials. However, my overriding visual impression of the area is one of predominantly traditional 2-storey dwellings. The irregular layout and siting of properties, frequently large mature plots and screening vegetation further contribute to the harmonious and tranquil traditional rural character and appearance.
13. The proposal would be a single storey dwelling, roughly 15m by 8m. With the exception of small lawned areas to either end, the long and narrow plot would be dominated by the internal access and hardstanding car parking. According to the Design and Access Statement, the dwelling would be finished in white K-Rend with Lakeland slate panels, with uPVC, aluminium and composite windows and doors and a slate roof.
14. While the detailed appearance would be a reserved matter, nevertheless the proposal would be a contemporary single storey dwelling in an awkward, narrow plot enclosed by tall blockwork walls. It would be markedly out of character with the traditional buildings that characterise the area. Dwellings with ancillary buildings and clusters of closely-spaced dwellings resulting from the conversion of rural buildings are not uncommon in rural areas. However,

the proposal would not be functionally or visually well-related to neighbouring dwellings and the close proximity of a modern bungalow to nearby buildings would be out of keeping in the traditional rural surrounding context.

15. The clearance of the remaining vegetation from the site and the absence of landscape screen planting would render the dwelling further conspicuous from the adjoining road and the access track that separates the appeal site from Ehen Garth. The somewhat urban development would not be screened or integrated into its surroundings. It would fail to make a positive contribution to the verdant rural landscape that surrounds the settlement and that frames the River Ehen. The visually obtrusive proposal would have an urbanising effect and it would erode local distinctiveness and sense of place.
16. Therefore, I conclude that the proposal would harm the rural character and appearance of the area. It would conflict with LP2013-2028 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.

#### *Living conditions*

17. The dwelling would be sited close to the long boundary of the appeal site, with its front elevation facing towards Belvedere and its rear elevation within roughly 2m of the tall boundary wall. The front elevation would be within around 12m of the gable end of Belvedere while its rear elevation would be less than 8m from the neighbouring property, Ehen Garth. Appearance would be a reserved matter and details of proposed windows have not been provided. However, there are facing windows in both neighbouring properties.
18. Belvedere is a tall building, apparently 2-storey with an undercroft. As such the first floor facing window, which I understand serves a bathroom, is significantly elevated above ground level. The bathroom window is clear-glazed and the submitted photographs illustrate that it would allow close and unobstructed overlooking over the appeal site and thereby the proposed dwelling, habitable room windows in its front elevation and its outdoor space. However, even allowing for ground floor facing windows in the proposed single storey dwelling, there would be no loss of privacy to Belvedere habitable room windows.
19. Ehen Garth is a traditional 2-storey dwelling and its rear is close to and roughly at the same level as the shared access road that serves the cluster of dwellings in this location. Its rear-facing habitable room window is above ground level, such that views are not afforded into the room in passing. However, due to the change in ground levels, the proposal would be elevated above Ehen Garth. The dwelling would be in close proximity to the rear of the neighbouring property and its habitable room window. Consequently, the proposal would result in close overlooking towards the neighbours in their dwelling.
20. In all, the proposal fails to demonstrate that adequate separation distances could be achieved in the interests of avoiding adverse impacts on the living conditions of residential occupiers, with regard to issues such as outlook, overlooking and privacy.
21. Therefore, I conclude that the proposal would not provide a high standard of residential amenity. Accordingly, it would conflict with the aims of Policies ST1,

DM10, DM11 DM12 of the LP2013-2028 and eLP policy DS6PU. These require, among other things, that proposals contribute to health and well-being, including by providing high residential amenity and that they achieve adequate separation distances to habitable room windows. It would also conflict with the aims of the National Planning Policy Framework (the Framework) in relation to creating places that promote health and well-being, with a high standard of amenity for existing and future users.

### **Other Considerations**

22. The site was formerly garden land used for the siting of a temporary residential lodge. Even accepting that the site would be brownfield land, the Framework gives substantial weight only to the value of using suitable brownfield land within settlements for homes. The former residential lodge has been removed and there is little evidence of independent residential use of the site. There is little substantive evidence that the lodge was retained for over 10 years nor certificate of lawfulness in this regard. The former lodge does not weigh in favour of a dwelling.
23. The Council considers that the site could be classed as sustainable due to its proximity to the settlement of Cleator Moor. However, well-located housing in terms of accessibility to services, facilities and public transport is a requirement of policy. The proposal would be designed to be well insulated and energy efficient. However, well-designed buildings are a basic requirement of planning policy. The proposal would not demonstrably be outstanding or innovative design which promotes high levels of sustainability or helps raise the standard of design in the area. The proposal would not harm the safe operation of the highway. Details of drainage could be secured by the imposition of planning conditions. These are neutral matters.
24. According to the Design and Access statement, the proposal would be a self-build dwelling to meet the demand on the Self-Build and Custom Housebuilding register. However, the planning application form states that the dwelling would be market housing and it would not demonstrably be self-build housing to meet an identified local.
25. I understand that the appellant wishes to move to a smaller property in the area. However, the dwelling would not be restricted to local persons and, notwithstanding his current intentions, there would be no guarantee that either the existing or the proposed dwelling would be occupied by a local family. The appellant's desire for a dwelling in this location is a neutral factor.
26. The 2020 Copeland Housing Needs survey found that a small proportion of people who were likely to move in the next five years wanted or needed a bungalow. However, there is little evidence that the reasonable housing needs of different groups in the community are not currently being met. There is also little evidence that a dwelling in this location would meet the needs of persons who need a single storey dwelling.
27. The application was not refused on grounds relating to biodiversity. However, the plans suggest that the site would be completely cleared and there be little apparent opportunity for meaningful planting. The Council's officer report advises that the proposal fails to demonstrate delivery of a minimum of 10% biodiversity net gain, in accordance with the requirements of eLP policy. No information appears to have been submitted with the appeal in this regard and

I am not persuaded that this is matter that could be addressed by planning condition, taking into account the constraints of the site.

28. The appeal site is close to, and within the buffer zone of, the River Ehen Site of Special Scientific Interest (SSSI). On the basis of distance from the SSSI and the former residential lodge use of the site, I have little reason to think that the proposal would adversely affect the designated site. Even so, in the absence of any evidence, if I had been minded to allow the appeal then this is a matter that would have warranted further consideration.

### **Planning Balance**

29. 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. In this case, the Council can demonstrate a 5 year supply of deliverable housing sites 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 existing adopted settlement boundaries and allocated sites. Therefore, the adopted spatial and housing policies are out-of-date.
30. The Framework advises that new homes should 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 services in villages. As the aims of the eLP housing policies are broadly consistent with the aims of the Framework in this regard, significant weight can be attached to the conflict with these policies.
31. The Framework recognises the intrinsic character and beauty of the countryside and it emphasizes the importance of protecting valued landscapes and creating high quality, beautiful and sustainable buildings and places. Development is expected to add to the overall quality of the area, to be sympathetic to local character and history including the surrounding built environment and landscape setting. On the basis of their consistency with the Framework, significant weight can be attached to the conflict with LP2013-2018 policies ENV5, DM10 and DM26 and eLP policies H6PU and N6PU.
32. The Framework emphasizes the importance of health and well-being, with development expected to provide a high standard of amenity for existing and future users. Significant weight can therefore be attached to the conflict with policies ST1, DM10, DM11 DM12 of the LP2013-2028 and eLP policy DS6PU.
33. The proposal would not be housing to meet local needs. Albeit would be reasonably accessible in terms of shops, services and access to public transport, the location is well separated from the settlement. Market housing in the countryside weighs moderately against the scheme. The harm to the rural character and appearance of the area carries significant negative weight, and the harm to residential amenity attracts moderate negative weight. The apparent loss of biodiversity weighs against the scheme to a modest degree.
34. While the Council can demonstrate a 5YHLS, that does not preclude further housing coming forward. Even so, one dwelling would make a limited 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 in terms of support for rural village 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 previously developed nature of the site carries limited weight in favour of the scheme.

35. 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**

36. 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.

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

*Sarah Manchester*

INSPECTOR