

STATEMENT OF CASE

**Appeal against the refusal of
Planning Permission in Principle for a
Proposed Residential Development
Land Adj.Thorntrees,
Ennerdale Bridge, Cumbria**

Planning Ref:- 7/2021/4076

Introduction

1.0 This Statement of Case supports an appeal by Lakeland Building Design on behalf of Mr & Mrs Smith against the Local Planning Authorities decision to refuse Planning Permission in principle dated 2nd September 2021.

This Statement of Case is directed towards the Council's reasons for refusal.

1.1 Matters in relation to the proposal are set out generally within the Planning Application. Those matters will not be repeated within this statement other than to address matters within the Planning Officer's Report and subsequent "reasons for refusal" noted within the decision notice.

1.2 The application was made for "Planning Permission in Principle" for residential development on land currently used for agricultural purposes.

1.3 The site is situated on the Western edge of the Village of Ennerdale Bridge, close to the boundary of the National Park and Copeland

2.0 The LDNPA Reasons for Refusal

2.1 The local authority has given two reasons for refusing the application:-

1. The application site is within an area of exceptionally high landscape value given its location in a National Park. The highest level of protection is given to the spectacular landscape of the National Park by development plan policies. Development Plan policies expect that development will conserve and enhance the special qualities of the National Park, including the character of the spectacular landscape.

National policies as set out in the National Planning Policy Framework (NPPF) states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks which have the highest status of protection in relation to these issues. The proposals would lead to the addition of buildings and an associated access road, driveways, hard landscaping and gardens into an otherwise undeveloped field.

The development would be visible to all users of the public road and public footpath that lead past the site and would be prominent from the western entrance to the village. The proposed development would represent a significant change to the character and appearance of the site at odds with the undeveloped rural nature of the northern side of the road and entrance to the village.

The proposals would therefore erode an important characteristic to the entrance of the village and would fail to reinforce the local character and distinctiveness of the area contrary to Policies 02 (Spatial strategy), 05 (Protecting the spectacular landscape) and 06 (Design and development) of the Lake District National Park Local Plan and the requirements of the National Planning Policy Framework. The harm identified is not outweighed by the provision of housing.

2, Policy 15 (Housing) of the Lake District National Local Plan permits new dwellings within the National Park where they contribute to meeting local need or local affordable need. It is not possible to apply conditions, including occupancy conditions, when approving applications for planning permission in principle to secure the dwelling in perpetuity to continue to meet local need as required by Policy 15. In the absence of a local occupancy condition the proposed dwelling would be contrary to Policy 15.

3.0 Planning Policy Context

3.1 The material planning policy documents are considered to be as follows:

- (i) National Planning Policy Framework (2021)
- (ii) Lake District National Park Local Plan 2020 -2035

- Policy 01: National and international significance of the Lake District
- Policy 02: Spatial strategy
- Policy 05: Protecting the spectacular landscape
- Policy 06: Design and development
- Policy 15: Housing

4.0 Addressing the Reasons for Refusal

4.1 Referring to the officer's report we would agree with the officer's statement "*The scope of 'permission in principle' (PiP) is limited to location, land use and amount of development. Other matters should be considered at the technical details consent stage. The nature of the application is such that the sole issue in this case is the principle of housing in this location.*"

4.2 The report continues to consider policy 02 against the proposal and we would again agree with the officer's conclusion that... "*Policy 02 sets out the broad spatial strategy for the National Park and reflects national policy which seeks to direct development to more sustainable locations and to protect open countryside.*

Policy 02 is intended to reinforce traditional settlement patterns, restrict Non-essential development in the open countryside and ensures on-going protection for the National Park and its special qualities.

*Ennerdale Bridge is defined as a village under policy 02 which has a role of strengthen community viability and resilience. New housing that meets an identified local need would in principle be supported. **The application field lies on the edge of Ennerdale as such forms part of the settlement. Policy 02 would therefore in principle allow housing to be considered in this location.** (Emphasis added).*

4.3 The report then continues to assess the application against Local Plan Policies 05 & 06 and its impact on the surrounding area and settlement form with specific regard to whether the proposal in this location would be reflective of the character of the settlement and the surrounding area.

4.4 In this instance we disagree with the officer's assessment of the application when considered against Policies 05 and Policy 06.

The site is currently an area of grassland attached to the applicant's residence "Thorntrees" which adjoins the site. The report quite rightly states that.... "*The application field is set back from the roadside behind a mature raised hedgerow, the dominant and characteristic feature from the road.*"

We do not agree with the officer's conclusion that the development of the site would "*erode the undeveloped character of the Northern side of the road*" ... and that it would "*adversely impact the spacious and rural character of this entrance to the village*".

We would contend that the mature raised hedgerow would help to mitigate against the minor impact to the landscape due to the development of the application site.

4.5 The officer's report quite rightly points out that there is development on the other side of the road, and the report states..... "*This part of the village is characterised by a small number of modest residential properties set back from the highway which provides a spacious feel to the area, forming a transition between the built up edge of the settlement and the rural landscape beyond. These properties are a non-traditional form of ribbon development extending out of the village.*"

We consider it reasonable to suggest that development of the appeal site in a similar manner to the development on the opposite side of the road, subject to design, would complement the western approach into the village. It would certainly not be alien to the existing development in that area of the village.

4.6 The report would seem to suggest that the application site is more prominent than that of development on the opposite side of the road when approaching the village from the West. We disagree with that conclusion.

The previously developed land on the opposite side of the road occupies a more prominent position in the landscape. Although the existing mature hedge is elevated from the road, the land "falls away" and slopes down into the valley. We would contend that, subject to the agreement of the technical details, the development of the appeal site would be less prominent as that of the existing development opposite and when viewed from distant viewpoints, we consider that development of the appeal site would assimilate into the backdrop of the existing development.

4.7 The report continues further to consider the access to the site. The schematic proposal put forward to the LDNPA with the application suggested that the site could accommodate two properties which would align, in terms of density, with the existing development in that area of the village. The access suggested considers the importance of the existing hedgerow and suggests a modest "paired access" to the site.

The access would be determined as a technical detail and we consider it reasonable to suggest that, given the existence of extensive traffic calming measure in proximity of the site, a safe entrance to the site is achievable.

4.8 The officer's report concludes its assessment of the application in light of Policies 05 & 06 by stating ... *"The introduction of housing into this location would therefore in my view impact on the undeveloped and rural character to the northern side of this entrance into the village and would fail reinforce local character and distinctiveness."*

We disagree with this statement. The development site is identified as part of the village and the character of this part of the village is a form of developed detached dwellings on the opposite side of the road. We would contend that, subject to design and approval of technical details, the development of the application site would reinforce the local character and distinctiveness of the village.

The appeal site is located on a site well related to the existing village format and we consider that the development would integrate well within the framework of the existing village.

4.9 It is imperative that villages within the county are encouraged to thrive and we consider that limited housing developments, such as the appeal site, are an important part of that process.

An important aim of the NPPF is to "Support a prosperous rural economy". Part of para 84 of the NPPF states.....**"The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist. – (Emphasis added)**

5.0 Local Housing need

5.1 Policy 15 of the local plan requires that all new dwellings meet an identified local need. The LDNPA have suggested that an approval of the Permission in Principle would result in an "un-fettered" dwelling.

5.2 Whilst we would agree with the terms of the policy, we would disagree with the authority's interpretation of the "Planning Permission in Principle" route for obtaining approval.

5.3 The following statements are taken from the Governments guidance relating to PIP route for obtaining planning consent.

“The permission in principle consent route is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of principle for proposed development from the technical detail of the development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second (‘technical details consent’) stage is when the detailed development proposals are assessed.

Following a grant of permission in principle, the site must receive a grant of technical details consent before development can proceed. The granting of technical details consent has the effect of granting planning permission for the development (emphasis added).

Other statutory requirements may apply at this stage such as those relating to protected species or listed buildings. Technical details consent can be obtained following submission of a valid application to the local planning authority. An application for technical details consent must be in accordance with the permission in principle that is specified by the applicant.

It is our understanding therefore that the PIP process establishes the principle of a housing led development on a particular piece of land and that that full permission cannot be obtained without approval of the technical details.

5.4 We further understand that the technical detail stage of the process can include conditions and specific obligations regarding occupancy.

We agree with the authority that conditions cannot be imposed when planning permission in principle is granted. However, it should be noted that full permission is not granted until the approval of the technical details, and it is at the technical detail stage when conditions and obligations can be attached.

5.5 The following statement is taken from the Governments guidance (gov.uk) relating to the imposition of conditions and obligations for developments that proceed through the PIP process.....

“Can planning conditions be attached to a grant of permission in principle?”

It is not possible for conditions to be attached to a grant of permission in principle and its terms may only include the site location, the type of development and amount of development. Local planning authorities can inform applicants about what they expect to see at the technical details consent stage. (Emphasis added)

Paragraph: 020 Reference ID: 58-020-20180615

Revision date: 15 06 2018 See previous version

Can planning conditions be attached to a grant of technical details consent?

It is possible for the local planning authority to attach planning conditions to a technical details consent providing they meet existing requirements around the use of conditions.

Paragraph: 021 Reference ID: 58-021-20170728

Revision date: 28 07 2017

Can local authorities agree planning obligations at the permission in principle and technical details consent stages?

Local planning authorities may agree planning obligations at the technical details consent stage where the statutory tests have been met. Planning obligations cannot be secured at the permission in principle stage. Local planning authorities can inform applicants that planning obligations may be needed at the technical details consent stage.

Paragraph: 022 Reference ID: 58-022-20180615

Revision date: 15 06 2018 See previous version

5.6 It seems clear from the Governments guidance regarding PIP application that the provision of an occupancy condition could be agreed at the technical detail stage of the process. From the information within the guidance, Local Authorities can inform applicants that planning obligations may be needed at the technical detail consent stage and that the provision for policy 15 could therefore be applied.

6.0 Conclusion

6.1 Despite the decision not to a grant approval for this application, the Local Authority has agreed that the application field lies on the edge of Ennerdale and as such forms part of the settlement; and that policy 02 would therefore, in principle, allow housing to be considered in this location.

6.2 The PIP route for obtaining permission should deal only with the principle of the land being suitable for a housing led development. All matters relating to design, access, landscaping, scale, siting and occupancy obligations, can be determined and agreed through the technical detail stage of the process before full permission is granted. Due to the nature and location of the site, there is a reasonable expectation that all such matters can be agreed at the technical detail stage.

6.3 We consider that this application in principle for up to 2 dwellings is appropriate for the site in terms of location within the village and we consider it in line with both local and national policies.

6.4 Taking all matters into account concerning the National guidance relating to the support of a prosperous rural economy, we consider that the benefits associated with this proposal will outweigh any adverse effects noted by the LDNPA and we respectfully request that the appeal be allowed.