



Lake District
National Park

TOWN AND COUNTRY PLANNING ACT 1990

APP/Q9495/W/22/3293903

Mr & Mrs W Smith

Thorn trees, Ennerdale, CLEATOR, CA23 3AR

**APPEAL STATEMENT BY
THE LAKE DISTRICT NATIONAL PARK AUTHORITY
AS LOCAL PLANNING AUTHORITY**

1 Introduction

- 1.1 The Authority's reasons for refusal and reasoning are set out in the decision notice dated and the officer's delegated report accompanying the appeal questionnaire.
- 1.2 This statement sets out the Authority's response to the appellants' statement of case.

2. Appellants statement

- 2.1 The Appellant's statements seeks to address the Authority's reason for refusal and puts forward why they consider the development. The Authority has formed different conclusions on the proposals which are outlined in detail in the delegated report and decision notice to which the Inspector is referred. Any specific points are also dealt with below.
- 2.2 The Appellant's statement under paragraphs 4.3 to 4.9 argues that development within the application field would have an acceptable visual and landscape impact.
- 2.3 The Authority formed different conclusions on the level of impact outlining that the proposals would lead to the addition of buildings and an associated access road, driveways, hard landscaping and gardens into an otherwise undeveloped field. As a result the Authority considers 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.
- 2.4 Paragraphs 5.1 through to 5.6 of the Appellants statement seeks to argue that the Authority's second reason for refusal, the inability to secure the properties for local needs, is incorrect and a suitable condition or obligation could be secured at the technical matters stage.
- 2.5 The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of the subsequent Technical Details Consent application. The NPPG is clear that conditions and legal agreements cannot be utilised to control development through a grant of permission in principle. Any conditions attached

at the technical matters stage would need to past the usual tests of planning conditions including relevance and reasonableness.

- 2.6 Land use is a matter dealt with at the PIP stage therefore the Authority would maintain that the imposition of a condition at the technical details stage in relation to this matter would not pass the tests of relevance or reasonableness. Consequently, without a mechanism to control tenure at the permission in principle stage, the proposed land use must be considered in an unfettered way. An unfettered dwelling would as a matter of principle conflict with the aims of the Local Plan Housing policies.
- 2.7 This is the same approach that has was taken in a recent appeal decision on a PIP application in Witherslack, appended below for the Inspectors reference.
- 2.8 The Appellants statements raises no other points which need to be address

3. Conclusion

- 3.1 Given the reasons for the refusal of planning permission, the Inspector is respectfully requested to dismiss this appeal.

Appendix A: 7/2022/5075 (APP/Q9495/W/21/3282243) Land south of Holme Cragg, Holme Road, Witherslack - Appeal Decision



Appeal Decision

Site visit made on 10 February 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal Ref: APP/Q9495/W/21/3282243

Land south of Holme Cragg, Holme Road, Witherslack, Grange-over-Sands, Cumbria LA11 6RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
- The appeal is made by K Barden & M Sigrist against the decision of the Lake District National Park Authority.
- The application Ref 7/2021/5075, dated 22 January 2021, was refused by notice dated 12 March 2021.
- The development proposed is erection of dwelling and storage building.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two 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. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of the subsequent Technical Details Consent application, if permission in principle is granted. I have determined the appeal accordingly.
4. The Lake District National Park Local Plan 2020-2035 (the LP) was adopted by the Local Planning Authority (LPA) on 19 May 2021. This now constitutes the development plan for the LPA's administrative area and its policies supersede those listed on the LPA's original decision notice. Furthermore, the Government published a revised version of the National Planning Policy Framework (the Framework) on 20 July 2021. I have, therefore, had regard to both the LP and the revised Framework in my decision. I am satisfied that this has not prejudiced the main parties as they have had the opportunity to comment on the implications of these policy changes over the course of the appeal proceedings.
5. There is some commentary in the parties' submissions over the lawfulness of the existing business operations on site. However, a determination of

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

lawfulness is beyond the scope of an appeal made pursuant to Section 78 of the Town and Country Planning Act 1990 (the Act). It is, however, open to the appellants to apply to have the matter determined under Sections 191 or 192 of the Act and any such determination would be unaffected by the outcome of this appeal.

Main Issue

6. The main issue is whether the site is a suitable location for residential development, having regard to local and national policies relating to the delivery of housing.

Reasons

7. The appeal site is a rectangular area of land to the south of the appellants' existing dwelling, Holme Crag. The site comprises a mix of trees and mature shrubs along with areas of hardstanding upon which a variety of vehicles and machinery are stored in association with the appellants' arboricultural services business. The site also includes two domestic scale sheds along with a steel storage container. Access is via an unbound track leading south from Holme Road.
8. Other than the host property, the appeal site is surrounded by open countryside in the form of woodland and agricultural fields. Despite the somewhat dispersed character of Witherslack, there are significant swathes of countryside between the appeal site and the village. Consequently, the appeal site does not form part of a settlement and is, therefore, located in the open countryside.
9. Policy 02 of the LP sets out the LPA's spatial strategy, directing the majority of growth and development towards existing rural service centres, villages or cluster communities. The policy limits development in the open countryside to instances where there would be an essential need for a rural worker; the location is necessary for infrastructure; where it would help to sustain an existing business; it would be necessary for and designed to support agricultural or forestry use; or it would be an appropriate extension, or reuse of an existing building. This policy approach is consistent with the Framework which seeks to avoid the development of isolated homes in the countryside², unless, among other things, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
10. However, the PPG is clear that conditions and legal agreements cannot be utilised to control development through a grant of permission in principle. Therefore, specific tenure, which would directly influence the land use, cannot be secured at this stage. Altering the description of development would not overcome this, as this alone cannot restrict future occupancy. Furthermore, the imposition of a condition at the technical details stage in relation to a matter that is confined to the permission in principle stage would not, to my mind, pass the test of reasonableness. Consequently, without a mechanism to control tenure at the permission in principle stage, the proposed land use must be considered in an unfettered way.
11. Therefore, despite the appellants' argument for a rural worker's dwelling to support the existing business, the proposal must be considered as an

² Framework paragraph 80.

unrestricted open market dwelling, as per the appellants' original submission. Accordingly, the proposal would result in an isolated home in the countryside that would not meet any of the aforementioned exceptions set out in local or national policy.

12. The proposed dwelling would be remote from local services and facilities, and I note that the site is not served by public transport. As such, even when recognising the transport differences between urban and rural areas, the future occupiers of the development would be heavily reliant on the use of the private motor car to access day to day services and facilities.
13. Such a lack of accessibility by means of transport other than the private car weighs significantly against the proposal and is contrary to the sustainable transport aims set out in the Framework. Consequently, the proposal would amount to an unsustainable pattern of development that would frustrate the LPA's overall spatial strategy and thereby undermine public confidence in the plan-led system.
14. The site has recently been the target of a serious burglary where a large amount of machinery was stolen. I appreciate that this must have been very distressing for the appellants and that this has had a negative impact on their business. In this regard, I acknowledge that there is a short distance between the existing dwelling and the area where machinery is currently stored, along with a lack of intervisibility due to intervening trees and other vegetation. However, no substantive reasoning has been given as to why the machinery could not simply be relocated closer to the appellants' existing dwelling. I also note that the LPA has indicated its support for a secure storage building/workshop on the site. Accordingly, on the evidence before me, I am not persuaded that an additional dwelling is justified.
15. For the above reasons, I conclude that the site is not a suitable location for residential development, having regard to local and national policies relating to the delivery of housing. Therefore, the proposal would conflict with Policies 02 and 15 of the LP which together seek to achieve sustainable patterns of development and growth, and housing that will meet identified needs. The proposal would also be contrary to the associated policies of the Framework, including the promotion of sustainable modes of transport and managing patterns of growth to achieve this.

Other matters

16. I acknowledge the appellants' assertion that there is a shortage of secure storage facilities in the area. However, the LPA has raised no objection to the principle of erecting a secure storage building/workshop on the appeal site to support the business. I also note that the proposal is supported by the local Parish Council with a supporting letter from one of its members. However, these matters do not overcome the conflicts I have found with the development plan.
17. In support of the proposal, my attention has been drawn to some recently constructed rural workers' dwellings in the locality. However, I do not have the full details of these other cases before me and therefore I am unable to draw any meaningful comparison with the appeal scheme. In any case, I have considered the proposal on its own merits and reached my own decision.

18. I accept that live-workspaces are becoming more prevalent across the country and that they can, in certain circumstances, support rural communities to thrive. However, it appears to me that the appellants already have a type of live-work arrangement on site in the form of an existing business supported by existing on-site accommodation.

Conclusion

19. I have found the proposal to be in conflict with development plan policies in relation to the location and supply of housing in rural areas. The proposal would also result in future occupants being reliant on private car use, contrary to the sustainable transport aims of the Framework. No material considerations of sufficient weight have been advanced to outweigh the conflicts with the development plan.
20. Therefore, I conclude that the appeal should be dismissed.

J M Tweddle

INSPECTOR