



Appeal Decision

Site visit made on 16 April 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2019

Appeal Ref: APP/Z0923/W/18/3214573

**Black How, Access off Scawfell Crescent, Seascale, Cumbria
(Easting: 304500; Northing: 501300)**

- 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 A 2nd Base against the decision of Copeland Borough Council.
 - The application Ref 4/18/2266/001, dated 16 July 2018, was refused by notice dated 29 August 2018.
 - The development proposed is described as: 'Outline application for 10 2 bed bungalows. New access road to site. Demolition of No 6 Scawfell Crescent. Demolition of buildings on site. App. 4/18/2266/001'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline with all matters reserved except for access. I have had regard to the details on Site Plan drawing 2 and on drawing number 2018/1, but have regarded all elements of those drawings as indicative apart from the details of the proposed access to the site.
3. The Government published the 2018 Housing Delivery Test (HDT) results, and an updated revised National Planning Policy Framework (the Framework), on 19 February 2019. On 28 March 2019 the Office for National Statistics published the updated annual affordability ratios. I have given the main parties the opportunity to comment on these matters.

Main Issues

4. From all that I have read, I consider the main issues in this case to be the effect of the proposed development on:
 - the character and appearance of Scawfell Crescent with regard to open space;
 - the living conditions of nearby residents with regard to noise and disturbance, and open space;
 - whether a satisfactory access to the site can be provided, having regard to the safety of all users, including vehicles and pedestrians;

Reasons

Character and appearance – Scawfell Crescent

5. Scawfell Crescent is part of a residential estate of houses set back from their sinuous road frontages behind wide grass verges and small areas of open space. Those verges and open spaces adjoin the roads themselves, with pedestrian paths running through them, separate from the vehicular carriageways. That layout, and those open spaces, provide an attractive landscaped setting to the houses and a consistent, open character to the estate, and make travelling around its streets a pleasant experience.
6. I observed numerous examples on Scawfell Crescent and in the wider estate of driveways having been created across some of those areas of open space, and of small groups of parking bays laid out along parts of their frontages. Those additions have fragmented and eroded those areas of open space, and thus the open landscaped character of the estate to some degree. However, where such areas exist, I observed that they are generally intermittent, of relatively limited width, and are interspersed by lengths of grass verge which immediately adjoin the carriageway edge, softening and mitigate the effects of those intervening expanses of hard surfacing.
7. 6 Scawfell Crescent and its neighbours are set back from the road, along the back edge of one such area of open space, which is relatively large, and which is also framed and enclosed by houses to either side. A group of parking bays has been laid out along part of its frontage. However, its remaining frontage is marked by long expanses of grass curving alongside the carriageway edge. Furthermore, in contrast to other similar areas nearby, the open space in front of No 6 is otherwise relatively uninterrupted by hard surfacing, with only a single driveway running across one corner and narrower pedestrian paths around its edges and across the middle. This particular area has thus maintained much of its open character, provides an attractive setting for the houses around it, and contributes positively to the landscaped character and appearance of its mature residential surroundings.
8. The wide access road which is proposed to cross the central part of that open space would significantly fragment its continuity and reduce the area of soft landscaping. Furthermore, the wide junction mouth at the site entrance onto Scawfell Crescent, combined with the relocation of the existing parking bays, would create a lengthy and uninterrupted expanse of hard surfacing adjacent to the road carriageway. The frontage of the open space would thus be dominated by hard surfacing and parking along almost its full width, with very little soft landscaping remaining adjacent to the road itself, or between those areas. The access and parking proposals would thus significantly erode the sense of space and openness, and the contribution that the relatively large, continuous, soft landscaped area makes to the setting of this group of properties and the wider street scene at present.
9. Planting to either side of the access road would screen it to some degree, although it would still be visible from parts of the site frontage. Such planting would also not be consistent with the generally open-plan character of this or other such areas in the wider street scene which, in the main, I observed to be simply laid to grass, and uninterrupted by more substantial planting or solid boundary treatments to any significant degree. In any event, the planting would not overcome the harm I have identified as a result of the long expanse

of hard surfacing and parking along the open space's frontage. Nor would the space or narrower verges created within the area currently occupied by No 6 overcome the harm arising as a result of the proliferation of hard surfacing, and the erosion of the area of open space to the front of that existing property.

10. I therefore conclude that the proposed development would have an unacceptable adverse effect on the character and appearance of Scawfell Crescent with regard to open space. The proposal would thus conflict with Policies SS5 and DM10, and with strategic development principles identified in Policy ST1, of the Copeland Local Plan 2013-2028 (the Local Plan) which, amongst other things, seek to protect areas of green infrastructure and ensure the creation and retention of quality places, and require development proposals to respond positively to the character of the site and the immediate and wider setting and enhance local distinctiveness.

Living conditions

11. The access road would run through what is currently the rear garden of No 6, between the neighbouring rear gardens of 4 and 8 Scawfell Crescent. An existing access drive to the rear of Scawfell Crescent serves only one property, and runs alongside only a small part of those rear gardens. Therefore, and as No 4 and No 8 are set back some way from the Scawfell Crescent road frontage, those private rear gardens are likely to be relatively quiet, undisturbed and tranquil spaces at present.
12. The access road would not be immediately adjacent to the boundaries of No 4 or No 8, and I observed that those neighbouring properties would have few or no windows directly facing the road itself. However, the road would introduce vehicle and pedestrian movements very close to, and alongside the full length of, the private rear gardens of those neighbouring properties. Notwithstanding the intention to provide landscaping and boundary treatments alongside it, residents using those neighbouring gardens would nonetheless be aware of vehicles and pedestrians using the access road.
13. Although the proposed dwellings would be bungalows, there is nothing substantive before me to suggest that their occupants would necessarily only have a single vehicle per property. In any event, the development would also generate vehicle and pedestrian activity from visitors and deliveries, as well as from the residents themselves. The introduction of such a level of activity into the area alongside the private garden areas of Nos 4 and 8 would result in a significant and unacceptable increase in the levels of noise and disturbance experienced by neighbouring residents using those areas, which are relatively unaffected by such activity at present. That activity would affect the full length of those neighbouring private rear garden areas, leaving their occupants with little respite from it. The development would therefore cause significant harm to the living conditions of the occupants of No 4 and No 8, and to their enjoyment of their properties.
14. Similarly, the development would introduce a significant increase in vehicle and pedestrian activity along the access drive adjacent to the rear garden of Howzat, which only serves that property at present. That property's rear garden is, similarly, detached from other nearby access roads at present. The increase in the use of that access arising from the development would therefore also increase the levels of noise and disturbance experienced by the occupants of Howzat to a significant and unacceptable degree.

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15. Properties further along the proposed access road are already close to, and surrounded to some degree by, the existing access, parking and turning areas of other properties on Black How, including the existing access drive to the site. Those properties closest to the site access road would be aware of some additional vehicle and pedestrian activity associated with the development. However, given the existing activity in the areas around those properties at present, any further effects on their occupants arising from the development in terms of noise and disturbance would be more limited than in the case of those other properties I have referred to above.
 16. I have had regard to concerns raised regarding the effect of vehicle lights on neighbouring properties. However, I am satisfied that any such effects could be mitigated by appropriate boundary treatments where necessary.
 17. The dwelling at Meadow Vale is located to one side of the proposed access road, and set back from it to some degree. The private rear garden of Meadow Vale would be situated still further from the access road, and separated from it by the existing house itself. The occupants of Meadow Vale may be aware of additional activity as a result of the development. However, given the separation between the access road and Meadow Vale's windows and private rear garden areas, any additional noise experienced in those areas would be limited, and would not be so significant as to justify withholding permission on that basis. Furthermore, given the angle of Meadow Vale in relation to the access road, I am not persuaded that its windows would be directly or adversely affected by lights from vehicles associated with the development.
 18. My attention has been drawn to the use of the open space in front of 6 Scawfell Crescent by children and other residents as an area of amenity space. The fragmentation of that space by the access road would affect its use as such to some degree. However, it is not formally identified as an area of public open space, nor do I have any substantive evidence before me to indicate that the area has a significant deficiency in public open space. I also observed that properties in the immediate vicinity have relatively large private rear gardens. Accordingly, on the basis of the evidence before me and my own observations, I do not find that the development would have an adverse effect on living conditions with regard to open space.
 19. However, for the reasons given, I conclude that the development would cause significant harm to the living conditions of the occupants of Howzat, and of 4 and 8 Scawfell Crescent, with regard to noise and disturbance. The proposal would therefore conflict with Policy DM10 of the Local Plan and with strategic development principles in Policy ST1 which, amongst other things, seek to ensure development provides or safeguards good levels of residential amenity, and creates or maintains reasonable standards of general amenity.

Vehicle and pedestrian safety

20. Whilst the application was made in outline, access has been applied for at this stage. In the context of outline and reserved matters applications, the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO) defines 'access' as the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network, where 'site' means the site or part of the site in respect of which an application for outline planning permission has been made.

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21. I have had regard to references to the detail of the road not having been discussed or finally designed. I also note that the highway authority did not object to the application, subject to conditions requiring the approval of details relating to the design of the access road and footways, amongst other things. Nonetheless, access has been applied for at this outline stage. Therefore, I must consider whether the access proposed would be satisfactory, on the basis of the evidence before me and having regard to those matters set out in the DMPO and reiterated in the Planning Practice Guidance (PPG)¹. Those matters relate not only to the point at which the access road connects to the existing highway network, but also to the treatment of the access route and accessibility within the site itself.
 22. It is evident from the submitted drawings the route that the access road would take. However, whilst I am advised that the road would be 5m wide, I have little further before me with regard to its detailed design or treatment, or how that width would be laid out in terms of providing access for vehicles, cycles and pedestrians. In particular it is not clear whether that width cited, or the width of the land available within the red line at certain points, would be sufficient to allow for the provision of a separate pedestrian footpath whilst also maintaining space for two vehicles to pass one another. It is also not clear from the details before me how much forward visibility would be available at certain points, in particular at what appears to be a sharp bend adjacent to the rear corner of 8 Scawfell Crescent.
 23. I therefore cannot be certain, on the basis of the details before me, that vehicles could safely pass one another and/or pedestrians without lengthy or potentially hazardous reversing manoeuvres, or that road users would be able to clearly see others approaching in the opposite direction at certain points.
 24. The absence of certainty regarding the provision of a segregated pedestrian footway gives me cause for further concern, particularly given the length of the road, the lack of clarity regarding visibility at certain points, and having regard to the possibility that residents of the proposed bungalows may have mobility difficulties or other disabilities.
 25. Furthermore, on the basis of the evidence before me, I cannot be certain whether the visibility splays specified in the highway authority's suggested conditions would be achieved at the access road junction with Scawfell Crescent, particularly having regard to the location of the repositioned parking bays immediately alongside it.
 26. Whilst not specifically raised by the Council, I have also noted concerns from interested parties regarding the potential for the development to increase vehicle and pedestrian movements along the existing lane which serves the site and other properties on Black How, and the shortcomings of that existing lane, including with regard to its width and absence of pedestrian footway. That existing lane is not included within the appeal site boundary. However, as confirmed by the appellant, it would not be closed. Whilst a new access would be provided as part of the development, I have little before me to indicate how or whether the access arrangements could be managed to ensure that the existing lane was used only by existing residents, or that vehicles and pedestrians associated with the proposed development would only use the new

¹ Paragraph Reference ID: 14-006-20140306

access road. Consequently, this adds to my concerns regarding the adequacy and safety of the proposed access arrangements for the development.

27. Therefore, for the reasons given, on the basis of the evidence before me, and in considering the matters of access as defined in the terms of the DMPO and the PPG, I cannot be certain that a satisfactory access to the development could be provided, having regard to the safety of all users, including vehicles and pedestrians. Furthermore, given the level of uncertainty and the potentially significant implications for the safety of vehicles and pedestrians which could arise, I am not satisfied that such matters could be dealt with by condition as suggested.
28. I therefore conclude that the proposal would conflict with an identified principle of sustainable development in Policy ST1 of the Local Plan, which refers to the creation of quality places and to accommodating traffic and access arrangements in ways that make it safe and convenient for pedestrians and cyclists to move around. I have also been directed to Local Plan Policy DM22 and find conflict with that policy which, amongst other things, requires development proposals to be accessible to all users and to provide convenient access into and through the site for pedestrians, cyclists and disabled people.
29. I have also been referred to Local Plan Policy DM12. However, insofar as it relates to highway matters, that policy refers only to car parking provision, and thus is not directly relevant to the matter of the safety of the access road itself.

Planning Balance

30. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
31. It is agreed by the main parties that the Council cannot demonstrate a 5 year supply of deliverable housing sites. Footnote 7 of the Framework states that, in such circumstances, policies which are the most important for determining the application should be considered out-of-date. Paragraph 11.d) of the Framework is thus engaged, and requires that permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. I find that the proposal would result in significant harm to the living conditions of existing residents and to character and appearance. Furthermore, on the basis of the evidence before me, I cannot be certain that a safe access could be provided to the development for all users within the site area identified. There would thus be a conflict with development plan policies SS5, DM10 and DM22, and with sustainability criteria identified in policy ST1. Those policies are consistent with the Framework, which requires that developments are sympathetic to local character, create places with a high standard of amenity for existing users, minimise the scope for conflicts between pedestrians and vehicles and address the needs of people with disabilities and reduced mobility. Accordingly, I give significant weight to the conflict with those policies, and to the harm arising in those respects I have identified.
33. The development of 10 bungalows would contribute to meeting a particular housing need, and to the overall supply of housing within the district. However,

given the small scale of the scheme, the benefits arising in that respect would be relatively modest, even in the district's current housing context, and I afford them only moderate weight.

34. The site is adjacent to existing housing in an established settlement, and I have had regard to the various services and amenities in Seascale which have been referred to, including employment and leisure facilities and public transport connections. Future occupants would provide some support to those existing services. The construction process would also bring some social and economic benefits, including employment during construction and spending on building materials. Those benefits would meet some of the sustainability criteria identified in Policy ST1 of the development plan, and would weigh in favour of the development. However, given the small scale of the development, the extent of such benefits would be limited. Accordingly, I afford them only limited weight.
35. I have had regard to the appellant's intention to arrange the dwellings to maximise solar gain, and to incorporate sustainable construction standards. However, as this is an outline application I have little detail before me with regard to the specifics of those proposals, or how such measures might be secured and maintained for the ongoing benefit of the development. I therefore afford such proposals limited weight.
36. I have been referred to the possibility that existing residents with septic tanks could connect to the proposed drainage system at a small cost. However, as I have little before me with regard to the detail of how such a measure would be achieved or secured, I afford it little weight.
37. Reference has been made to the New Homes Bonus, and to council tax from future occupants. However, there is nothing to suggest that such payments would relate directly to any specific planning aspects of the development proposed. I therefore have little reason to conclude, on the basis of the evidence before me, that such payments would comprise anything other than a general financial benefit to the local authority. As such, and in accordance with the PPG², I attach little weight to these.
38. Taking everything into account, I conclude that the significant adverse effects I have identified with regard to living conditions and character and appearance, and the uncertainty remaining regarding the safety and suitability of the proposed access to the development, significantly and demonstrably outweigh the modest benefits of the proposal when assessed against the policies in the Framework taken as a whole. Accordingly, I find that the proposal would not constitute sustainable development for the purposes of paragraph 11 of the Framework.
39. Furthermore, whilst the proposal would achieve some of the criteria in Policy ST1 of the development plan, I have found significant conflict with other aspects of that policy, and with other development plan policies. That conflict outweighs the modest benefits of the proposal. I therefore find that the proposal would be contrary to the development plan when taken as a whole. That conflict is not outweighed by other material considerations, including the provisions of the Framework and paragraph 11. Therefore, the appeal should be dismissed.

² Paragraph Reference ID: 21b-011-20140612

40. I have had regard to other concerns raised by interested parties, including with regard to drainage, and the implications of demolishing 6 Scawfell Crescent. However, as I find the proposal to be unacceptable for other reasons, I have not needed to consider those matters further in this instance.

Conclusion

41. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR

Richborough Estates