



Appeal Decision

Site visit made on 16 October 2006

by **John Yellowley** BSc CEng MICE

an Inspector appointed by the Secretary of State for
Communities and Local Government

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Appeal Ref: APP/Z0923/A/06/2018317

Land adjacent to Frizington Road, Frizington CA26 3QJ

- 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 Mr J O Bewsher against the decision of Copeland Borough Council.
- The application Ref 4/05/2898/001, dated 19 December 2005, was refused by notice dated 8 February 2006.
- The development proposed is residential housing.

Decision

1. I dismiss the appeal.

Procedural Matter

2. The application was made by Mr J O and Mr A W Bewsher. The appeal is travelling in the name of Mr J O Bewsher.
3. The application was submitted in outline with only the principle of residential housing to be determined at this stage. The size of the site on the application is given as "58m by 61m, $\frac{3}{4}$ of an acre approx". Map No 1 submitted with the application shows an area hatched blue and an area hatched pink. The total of these two areas is consistent with the dimensions on the application. I have considered the appeal on the basis of residential housing on the appeal site comprising the area hatched pink which has a frontage onto the lane leading to Yeathouse Quarry civic amenity site of about 34m and a depth varying from about 36m on the west side to about 18m on the east side.

Planning Policy

4. Since the Council determined the application, the Copeland Local Plan 2001-2016 (2nd Deposit Version) including modifications was adopted on 6 June 2006 and became the Replacement Copeland Local Plan 2001-2016 (LP). The Proposals Map defines development boundaries around settlements and Policy DEV 4 defines the priority sequence given to development on different types of land within those boundaries with previously undeveloped land being the lowest priority. Policy HSG 4 deals with small scale housing development, linking this to the priority sequence in Policy DEV 4 and other plan policies. Policy SVC 13 seeks to protect open space and facilities from development.

Main Issues

5. I consider the main issues in this case to be the suitability of the site for residential development and the effect of the proposed development on the provision of allotment facilities.

Reasons

6. Nos 56 to 80 Frizington Road form a terrace of housing, typical of the linear development which is a characteristic of this community. Separated by a narrow lane, land to the rear of the terrace is generally used as gardens with boundaries established by a variety of fencing. The depth of the gardens varies with those towards the northern end of the terrace generally extending further than those towards the southern end of the terrace where, with some exceptions, they appear to extend to the western boundary of the appeal site. The gardens and the appeal site itself appear to have been formed on previously open pasture and the land beyond the gardens and the appeal site to the north, east and south, across the lane to the civic amenity site, is open pasture. The appeal site itself is a level area which does not appear to be in active use.
7. The application does not indicate the type of residential development proposed but the appellant refers to one dwelling in his grounds of appeal. Although the proposed development would be within the settlement boundary, I agree with the Council that the frontage onto the lane is not otherwise built-up and therefore the proposed development would not constitute infilling. I consider it would be isolated in the sense that it would be the only residential development set behind the terrace and in my view, would run against the characteristic grain of the surrounding development. I also consider the appeal site would not meet the definition of previously-developed land in Annex C of Planning Policy Guidance Note (PPG) 3: *Housing*. As such it would be considered the lowest priority for development set out in Policy DEV 4 of the LP. Furthermore, evidence has been provided to demonstrate the availability of other previously developed land nearby which reduces the need for this site to be brought forward at this time.
8. The lane to the civic amenity site is at its narrowest as it passes the appeal site with insufficient width for 2 way traffic. Nevertheless, the lane is relatively lightly trafficked and although no details were supplied with the application, I consider it would be possible in principle to provide a satisfactory access to the proposed development which would not be detrimental to highway safety. However, my finding on the principle of access does not overcome my other concerns on the suitability of the appeal site for residential development and I conclude it would be contrary to Policies HSG 4 and DEV 4 of the LP.
9. The appellant indicates that the adjacent land to the west of the appeal site is rented as private gardens but disputes the Council's view that these together with the appeal site should be regarded as allotment gardens. The land is in private ownership, as are some other gardens to the rear of the terrace and I accept the appellant's claim that the appeal site itself has not been rented and has been used as a private garden. Whether or not a private garden, detached from the curtilage of a property, should be considered as an allotment, the Annex: Definitions to PPG 17: *Planning for Open Space, Sport and Recreation* includes both domestic gardens and allotments in the broad range of open spaces which may be of public value. In this location, I consider the appeal site and the adjacent land provide open space within the settlement boundary, close to the curtilage of houses in the terrace which is

of public value for recreational purposes, promoting health and well being. Notwithstanding the agreement of the Ordnance Survey to delete the Allotment Gardens designation from their map, in my view, the use of the appeal site for residential development would result in the loss of an important facility. Whilst it may not fall within the strict definitions of Policy SVC 13, it would undermine the objectives of PPG 17 and this adds to my concern. This together with my conclusion on the suitability of the site for residential development leads me to dismiss the appeal.

John Yellowley

Inspector