

## PLANNING APPEAL DECISIONS

Lead Officer: Tony Pomfret – Development Services Manager

To inform Members of recent appeal decisions at Plot 2, Blythe Place, Seamill Lane, St Bees and 2 Bransty Villas, Whitehaven.

**Recommendation:** That the decisions be noted in the context of the Council's Local Plan policies and also in relation to performance monitoring.

**Resource Implications:** Nil.

### 1.0 SUPPORTING INFORMATION

#### 1.1 Plot 2, Blythe Place, Seamill Lane, St Bees

1.1.1 Full planning permission for one split level two storey detached dwelling on a steeply sloping site, formerly part of a commercial nursery within the village, was refused in December 2007 (4/07/2657/0F1 refers) on the following grounds:-

“By virtue of its scale and elevated siting the proposed two storey, split level dwelling would constitute an over dominant form of development out of character with the neighbouring property. Furthermore, the height and position of the dwelling would result in the potential for overlooking and resultant loss of privacy for the adjoining property at variance with Policies DEV 6 and HSG 4 of the adopted Copeland Local Plan 2001-2016.”

1.1.2 A subsequent appeal against this decision has been dismissed. In terms of affect on the character and appearance of the area the Inspector considered that because of its massive scale, bulk and position the dwelling would dominate the street scene and would appear as over development of the plot. He concluded that it would appear incongruous and detrimental to the character and appearance of Seamill Lane contrary to Policies DEV 6 and HSG 4 of the Local Plan. The Inspector was also of the opinion that the dwelling would adversely affect the living conditions of the residents of the immediate neighbouring property and would oppressively dominate it to an unacceptable degree.

1.1.3 A copy of the Inspector's decision letter is attached.

#### 1.2 2 Bransty Villas, Whitehaven

1.2.1 An application for full planning permission for the construction of a first floor balcony at the rear of this semi detached house situated in an elevated position overlooking the harbour was refused in March this year (4/08/2034/0F1 refers) for the following reason:-



# Appeal Decision

Site visit made on 19 August 2008

by Alan Upward BA(Hons) MCD MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

0117 372 6572  
email: enquiries@pins.gov.uk

Decision date:  
28 August 2008

Appeal Ref: APP/ZO923/A/08/2075059

2 Bransty Villas, Bransty Row, WHITEHAVEN, CA28 6HQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Susan Woodacre against the decision of Copeland Borough Council.
- The application Ref 4/08/2034/0, dated 25 January 2008, was refused by notice dated 6 March 2008.
- The development proposed is **construction of 1<sup>st</sup> floor balcony at rear of 2 Bransty Villas, Bransty Row, Whitehaven**

**Formal Decision: I allow the appeal, and grant planning permission for the construction of a first floor balcony at the rear of 2 Bransty Row, Whitehaven, CA28 6HQ in accordance with the terms of the application, Ref 4/08/2034/0, dated 25 January 2008, and the plans submitted with it, subject to the condition that the development hereby permitted shall begin not later than three years from the date of this decision.**

## The main issues are

- the effect upon the privacy of neighbours; and
- the impact upon the character of the area.

## Appraisal

1. 2 Bransty Row is a semi-detached house of traditional design set in a row of similar properties above the harbour of Whitehaven. The rear wall of the house, to which the cantilevered balcony would be attached, faces the harbour from an elevated position. The proposed balcony, to be attached to a first floor bedroom window opening, is relatively small in size reaching out 1.5 metres from the wall. In view of the inset from the boundary of the attached house at number 1 and the gap between the appeal site and the house on the northern side there would be little prospect of users of the balcony seeing into neighbours' windows at close quarters so as to infringe privacy.
2. People standing on the balcony would be able to overlook the neighbour's garden at number 3. This would be more obvious than would now happen from inside the bedroom and from a more elevated position than now occurs when residents are using the garden or the rear conservatory. It remains the case that people in either of those ground floor places can clearly overlook the garden on the northern side because of the detailed circumstances of the site and the existence only of low fencing dividing the plots. Neither do I consider that the extra height for people standing on the balcony would be overbearing for neighbours. Use of the proposed balcony as a limited outside sitting space to enjoy the coastal and harbour prospects would in these circumstances have little noticeable effect upon the amenity of occupants of number 3. In relation to number 1 the impact would be negligible. Although the submitted plans showed the rear garden boundary of the appeal property as an extrapolation of the line from the house party wall, the actual space behind number 1 is laid out as part of the garden space of number 2. A wall separates this from the private garden space for number 1 which is located largely at the side of the property well removed from overlooking from the balcony.
3. In relation to the second issue, the rear faces of the houses along Bransty Row are a prominent visual element in views from the harbour area below above the line of the steep vegetated slope. They are simple traditional domestic architecture in semi-detached and terraced form typical of the town. The views are of their rear elevations where additions to the overall mass of the buildings might be expected. In this case there is relatively little by way of such additions apart

COPELAND BOROUGH COUNCIL  
DEVELOPMENT SERVICES

29 AUG 2008

RECEIVED

from the uPVC conservatory attached to the appeal property. The proposed balcony would be fairly inconspicuous addition to this face because of its size, simple shape and lightweight appearance. Although using modern materials of steel and glass it would not represent an incongruous feature damaging to the appearance of the building or the character of the area as seen from the harbour.

4. My conclusion is that the proposal would materially harm neither the amenity of neighbours nor the character of the area in ways which would conflict with the criteria of 'saved' Policy HSG 20 of the adopted local plan. The appeal will be allowed.

*Alan Upward*

INSPECTOR



# Appeal Decision

Site visit made on 14 July 2008

by **Anthony Lyman** BSc(Hons) DipTP  
MRTPI

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

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
Tel: 0117 372 6372  
email: enquiries@pins.gov.uk  
Decision date:  
13 August 2008

**Appeal Ref: APP/Z0923/A/08/2069201**

**Plot 2, Blythe Place Gardens, Seamill Lane, St. Bees, Cumbria, CA27 0BG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs Daniel against the decision of Copeland Borough Council.
- The application Ref 4/07/2657/0, dated 2 October 2007, was refused by notice dated 13 December 2007.
- The development proposed is a new dwelling.

## Decision

1. I dismiss the appeal.

## Procedural Matter

2. An accompanied site inspection for this appeal had been arranged. However, no representative from the Council attended. Having obtained the owner's permission to enter the site, I asked him and the appellants' agent to leave and I proceeded with an unaccompanied site inspection.

## Main issues

3. I consider that the main issues relating to this appeal are the effect that the proposed development would have on i) the character and appearance of the area, ii) the living conditions of the occupants of neighbouring property.

## Reasons

4. Seamill Lane is a narrow, winding road which descends from Main Street, St Bees downhill to the beach. The appeal site is one of four plots which were granted outline planning permission for four dwellings on 30 March 2005. The plots were originally a market garden run by the existing land owner who resides in a bungalow called Wyndhowe which is adjacent to plot 2. The appeal site rises steeply from Seamill Lane and contains retaining walls which are said to be *strategic to the retention of the bank and the site stability*. The proposal is to build a large detached four bedroom split level house with two and a half storeys. The plans show additional velux type windows in the roof space.
5. The outline permission was granted subject to a number of conditions, one of which restricted the dwellings to single storey buildings. This condition was imposed to minimise the impact of the development on existing neighbouring properties. However, this appeal relates to an application for full planning

permission and not reserved matters relating to the original outline permission. The appellants argued that the application should therefore, be judged on its own merits and that the condition attached to the outline consent was *unnecessary, unjustified and arbitrary*. Nevertheless, the condition relating to single storey buildings was extant at the time of the Council's decision and was a material consideration. However, as that outline permission has now lapsed, the condition carries little weight in my decision.

*Character and appearance of the area*

6. Seamill Lane is characterised by a haphazard arrangement of buildings across the hillside, ranging from bungalows to detached houses and a row of older, three storey houses, Blythe Terrace, near to the appeal site. There is a wide variety of architectural styles, materials, age of properties and plot sizes. The proposed dwelling would be approximately 12m wide and deep with a gap of about 1m to each side boundary. The facade would incorporate a large feature glass gable and balcony to the lounge at first floor level facing this narrow lane. However, because of its massive scale, bulk and position it would dominate the street scene and would appear as an overdevelopment of the plot, more appropriate in an urban setting, rather than in this rural village fringe. The appellants made comparison to *the imposing terrace of Blythe Place* nearby, to justify the scale of the proposal. However, that terrace is much more domestic in scale because the facade is clearly divided into the individual dwellings. On this issue, I conclude that the proposed dwelling would appear incongruous and detrimental to the character and appearance of Seamill Lane, contrary to policies DEV 6 and HGS 4 of the Copeland Local Plan (CLP).

*Living conditions of neighbours*

7. The proposed dwelling would be approximately 3.6m from the nearest part of the bungalow Wyndhowe and would be about 4.5m higher overall. The appellants stressed that the occupant of that bungalow was fully in support of the proposal and had made no objections to it. However, as that occupant is the vendor of plot 2, subject to planning permission being granted, I attach only limited weight to this argument as circumstances may change in the future. In my opinion, the expanse and height of the south facing gable, so close to the boundary, would oppressively dominate the adjoining property to an unacceptable degree. I accept that there would be little overlooking of Wyndhowe from the proposed building itself, because there would be only one small window in that elevation. However, the external steps up to the front door and the front elevated terrace adjoining the boundary, would afford direct views down into the neighbouring property and garden, thereby harming the privacy of its occupants. I conclude on this issue that the proposed development would adversely affect the living conditions of neighbours and would fail to satisfy the requirements of policies DEV 6 and HGS 4 of the CLP.
8. For the reasons given and having considered all other matters raised, I dismiss the appeal.

*Anthony Lyman*

INSPECTOR