

PLANNING APPEAL DECISIONS

Lead Officer: Tony Pomfret – Development Services Manager

To inform Members of three recent appeal decisions for dwellings at Woodlea, Goosebutts and Land adjacent to Summerhill House, Bigrigg together with a domestic wind turbine at Wasdale Park, Seascale.

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 Outline Application for Erection of a Single Bungalow, Land to the Rear of Woodlea, Goosebutts, Cleator Moor

1.1.1 Outline planning permission for the above was refused in January this year on the grounds it constituted non-essential housing development in the countryside contrary to Policy HSG 5 of the adopted Copeland Local Plan 2001-2016.

1.1.2 The Inspector was unable to conclude that the case put before him was so exceptional that the restrictions embedded in Policy HSG 5 should be relaxed and, accordingly, has DISMISSED the appeal.

1.2 Dwelling, land Adjacent Summerhill House, Springfield Road, Bigrigg

1.2.1 An application for a dwelling in this location was refused in December last year for the reason it represented overintensive development on a backland site which would result in a significant loss of residential amenity for neighbouring dwellings at variance with Policies HSG 4 and HSG 8 of the adopted Copeland Local Plan.

1.2.2 The Inspector has DISMISSED the appeal. She was of the opinion that the relationship between the proposed dwelling and No. 50 Springfield Road in particular would be cramped and, therefore, harmful to the living conditions of the occupants at variance with Policies HSG 4 and HSG 8 of the Local Plan.

1.3 Installation of a Wind Turbine, 29 Wasdale Park, Seascale

1.3.1 A recent appeal has been DISMISSED for the above following a refusal of planning permission in February this year.

1.3.2 The Inspector concurred with the Council's view that there was insufficient evidence to demonstrate that noise from the turbine would be within tolerable limits. Given the very close proximity to the adjacent property and its garden she considered it would be wrong to allow the appeal. She felt it had not been demonstrated that the terms of Policies EGY 1 and ENV 21 of the Local Plan had been met.

Contact Officer: Heather Morrison, Senior Planning Officer

Background Papers: Copies of the Inspectors' appeal decision letters are appended to this report



Appeal Decision

Site visit made on 24 July 2007

The Planning Inspectorate
4/11 Eagle Wing
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by **Keith P Durrant** MA BArch(Hons) RIBA
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an Inspector appointed by the Secretary of State
for Communities and Local Government

Date: 15 August 2007

Appeal Ref: APP/Z0923/A/07/2037911

Land to the rear of Woodlea, Goosebutts, Cleator Moor, Cumbria

- 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 P Wood against the decision of Copeland Borough Council.
- The application Ref 4/06/2798/O, dated 22 November 2006, was refused by notice dated 10 January 2007.
- The development proposed is erection of a single bungalow.

Decision

1. **I dismiss the appeal.**

Main Issues

2. The issues are (a) whether there are exceptional circumstances arising from local social conditions to justify a dwelling, in conformity with Policy HSG5 of the Copeland Local Plan; and (b) whether a safe access can be achieved.

Reasons

3. The site is outside the settlement boundaries defined in the Local Plan, although as previously developed land adjacent to existing housing a case can be made for granting permission if there is an exceptional and local individual social need - even if it would extend development slightly beyond the existing boundary. However, whilst the proposed dwelling would enable Mrs Wood to live diagonally opposite and support her elderly and severely disabled father, that understandable medical and family need falls short of meeting the policy objectives, when all the alternatives have not been explored and put to me. The applicants already live locally and, I am told by the Council, it may for example be possible to extend their present home. Without a more detailed and extensive need case I am unable to conclude that it is so exceptional that the restrictions embedded in Policy HSG5 should be relaxed.
4. I not persuaded that an additional dwelling on this 3 dwelling private cul-de-sac would lead to a significant highway problem. Although the access is narrow and visibility at the junction is marginally limited, the road at Goosebutts is also effectively a cul-de-sac and traffic levels are likely to be relatively small.

Keith P Durrant

INSPECTOR



Appeal Decision

Site visit made on 3 August 2007

by Alison Roland BSc DipTP MRTPI

an Inspector appointed by the Secretary of State
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Date: 28 August 2007

Appeal Ref: APP/Z0923/A/07/2041231

Land adj Summerhill House, 51 Springfield Road, Bigrigg, Egremont CA22 2QT

- 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 P Berry against the decision of Copeland Borough Council.
- The application Ref: 4/06/2747/0, dated 27 October 2006, was refused by notice dated 6 December 2006.
- The development proposed is a dwelling.

Decision

I dismiss the appeal.

Main issue

The main issue in this appeal is the implications of the proposal for the living conditions of nearby residents.

Reasons

The living room window in the proposed dwelling would stand about 14 metres from the rear of No 46 Croftlands which is considerably less than the 21 metres specified in Policy HSG 8. However, the two properties would be orientated at an angle to each other which would reduce the perception of overlooking. Furthermore, there are two intervening boundary treatments of significant height. It seems most unlikely that both these boundaries would be removed as they abut a footpath, but even if they were they would almost certainly be replaced by other walls or hedges in order to maintain privacy. I therefore consider the relationship of the proposed dwelling to that property to be satisfactory and it would not give rise to a material loss of privacy.

The Council say that the dwelling would stand about 11 metres from the rear of No 50 Springfield Road and the intervening garage would stand only about 5 metres distant. The appellant refers to the nearest window as a bedroom window. These distances would fall short of the 12 metre separation distance advocated by Policy HSG 8. I appreciate that the numerical shortfall would be short in the case of the house, but the garage would stand rather closer and the separation distances are expressed in minimum terms as opposed to optimal distances. In particular, although I appreciate the height of the first floor window in No 50, having regard to the strong sense of enclosure created by the side of No 51, I share the Council's concern that the two properties would stand uncomfortably close to each other. The result would be a cramped relationship which would be unduly oppressive and

create a rather uninspiring outlook for the occupants of No 50. The sense of openness which presently exists to the rear of that property would be significantly reduced. I am mindful that the occupants have not objected the proposal, but that cannot automatically be interpreted as support and I must also consider the implications for future residents.

For these reasons, I conclude that the relationship between the proposed dwelling and No 50 Springfield Road would be cramped which would be harmful to the living conditions of the occupants therein. The proposal would thus conflict with Policies HSG 4 and HSG 8 of the Local Plan.

ALISON ROLAND

INSPECTOR



Appeal Decision

Site visit made on 3 August 2007

by **Alison Roland BSc DipTP MRTPI**

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

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Date: 28 August 2007

Appeal Ref: APP/Z0923/A/07/2039636

29 Wasdale Park, Seascale, Cumbria, CA20 1PB.

- 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 David Jackson against the decision of Copeland Borough Council.
- The application Ref: 4/06/2830/0 dated 7 December 2006, was refused by notice dated 7 February 2007.
- The development proposed is installation of a wind turbine.

Decision

I dismiss the appeal.

Main issue

The main issue in this appeal is the implications of the proposal for the living conditions of nearby residents in respect of noise.

Reasons

There is limited information in relation to the noise levels likely to be generated by the unit. The Manufacturer's product specification states that noise from the generator system would be in the order of 52 dBA 5 metres behind the turbine with a gusting wind speed of 7 m/s (metres per second) and 33 dBA with a speed of 5 m/s. However, it is not clear whether these levels incorporate blade noise and how they relate to average wind speeds in the area. The evidence also suggests that the unit is capable of operating at wind speeds of up to 14 m/s before cut out but there is no information on the noise levels associated with higher wind speeds.

The companion guide to Planning Policy Statement 22: *Renewable Energy*, advises that increases in ambient noise levels around noise sensitive developments should be kept to acceptable levels with relation to existing background noise. Whilst that advice relates to larger wind farms, the same principle applies here. Although the appellant refers to noise from the adjoining railway line, the actual background level of noise is difficult to assess in the absence of any noise readings. It is also likely to vary between the day and night, dependant for instance, on the frequency of passing trains and traffic. It is therefore difficult to make any assumptions about the likely resultant noise levels and there is simply insufficient evidence to demonstrate that noise from the unit would be within tolerable limits.

With this in mind and given the very close proximity of the unit to the adjacent property and its garden, I consider it would be wrong to allow the appeal. I fully

appreciate that the occupiers of that property raised no objection to the proposal, but they may not have been fully aware of the possible consequences. In any event, I must determine the proposal on its merits. For these reasons, I conclude that it has not been demonstrated that the terms of Policies EGY 1 and ENV21 of the Local Plan can be met.

Although the Government is committed to increasing the proportion of energy derived from renewables, any benefit in this regard must be balanced against the potential harm identified above. I also note the concern expressed by third parties in relation to visual intrusion. Nevertheless, the structure would be relatively small when viewed in the context of the house and given the available separation distance from the houses opposite, I do not consider that it would appear unduly intrusive. However, these findings do not outweigh my conclusions in relation to noise.

ALISON ROLAND

INSPECTOR