



Appeal Decision

Site visit made on 15 April 2008

by **Brendan Lyons** BArch MA MRTPI IHBC

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

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Decision date:
14 May 2008

Appeal Ref: APP/Z0923/A/08/2064554

Land adjoining No 9 Alder Close, Whitehaven, Cumbria CA28 6LD

- 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 W Glasson against the decision of Copeland Borough Council.
- The application Ref 4/07/2409/0, dated 15 June 2007, was refused by notice dated 25 July 2007.
- The development proposed is residential development.

Decision

1. I dismiss the appeal.

Preliminary matter

2. The application was submitted in outline form, with matters of layout, scale and access for full approval at this stage. The submitted plan shows what appear to be two detached houses with garages, one of which would be attached and one freestanding. The plan includes no indication of the intended height of the buildings and a Design and Access Statement has not been provided. However, I am satisfied that there is sufficient information for me to consider the appeal.

Main issues

3. The main issues in this appeal are:
 - the suitability of the site for development, with regard to the need for development in the countryside and the protection of open space;
 - the effect on living conditions for residents of adjoining properties; and
 - the adequacy and safety of the proposed access.

Reasons

4. The appeal site is a piece of steeply sloping ground to the rear of suburban houses at the edge of the built-up area of Whitehaven. It is not disputed that the site lies outside the settlement boundary defined in the Copeland Local Plan 2001-2016 (LP), and hence forms part of the open countryside. Echoing national policy guidance, LP Policies DEV 5 and HSG 5 oppose development outside settlement boundaries, unless in defined exceptional circumstances such as an essential need for agriculture. As such circumstances would not apply in this case, the proposal would be contrary to development plan policy.

5. The appellant argues that the site should not properly be regarded as open countryside, and states that it was originally intended to be developed with one house as part of the adjoining estate. The site is accessed only by two paths, one of which is a public footpath. It is made up of rough grassland, much of which is currently overgrown with scrub. In my view, its character and appearance is much closer to open countryside than to a suburban housing estate and its boundaries do not suggest that it clearly forms part of the estate, as claimed by the appellant. I can see no benefit to "rounding off" the estate that would justify departing from established policy.
6. Evidence provided by the Council and local residents suggests that the land has been identified as an open space since the earliest proposed layout of the estate and that later proposals to put a single house or bungalow on the site were not pursued. The layout as implemented appears to conform to the revised plan approved by the Council in 1987, which shows the site as a play area. The appellant does not claim that permission was granted for a house at any time. Even if it had been, it would not automatically follow that the present proposal should be allowed.
7. LP Policy HSG 5 specifically opposes development that would affect areas of green space that have an important recreation or amenity value to the local community. Although the landscaping and fencing of the site required by condition in 1987 appears never to have taken place, I accept the views of the Council and local residents that the site is valued by local people. The appellant acknowledges that it is well used by dog walkers. Despite being partly overgrown, I can imagine it being attractive for older children's play. There was no obvious evidence of fly-tipping when I visited the site.
8. The possibility of replacement provision for open space affected by development is opened by LP Policy SVC 13. The appellant states a willingness to make a contribution to compensate for the loss of the open space. However, no details of a clear proposal, including the terms of any planning obligation, are before me for consideration. Accordingly, I attach little weight to the suggestion and conclude that the proposal would be contrary to Policies HSG 5 and SVC 13.
9. The design of the proposed houses is not for full approval at this stage. Without details of floor plans or window locations I cannot reach a definitive judgement on potential overlooking of adjoining houses. The Council disputes the appellant's claim that the layout would comply with the minimum separation distances set out in LP Policy HSG 8. It would be possible, though rather difficult, to design the houses without windows of habitable rooms facing the rear of the houses on Ash Grove. However, whatever their internal layouts and external design, their location so close to the boundary at a much higher level than Ash Grove would result in an overbearing effect on outlook from the Ash Grove houses. Their relationship with the side of No 9 Alder Close would be more level, but much closer. Overlooking might not be caused but there would be an adverse impact on outlook from No 9, which has been designed to avail of outlook over the adjoining open space. I consider that there would be clear detriment to living conditions in these houses.
10. The proposed access drive would be formed by demolishing half of a pair of semi-detached garages facing Ash Grove. Details of the altered garage could

be secured by a condition, and I am satisfied that sight lines at the junction would be adequate. However, the narrow drive would soon slope very steeply between tight boundaries. I do not accept that there would be sufficient width to provide an adequate separate fenced space for the public footpath. Because of the steep gradient and tight enclosure, shared use of the drive by pedestrians would in my view be hazardous. This unsafe access would be contrary to LP Policy DEV 6.

11. In summary, I consider that the proposal would conflict in a number of respects with development plan policy. I have taken account of all matters raised, but have found no material considerations of sufficient weight to justify setting aside policy in this instance. I therefore conclude that the appeal should be dismissed.

Brendan Lyons

INSPECTOR