

**PLANNING APPEAL DECISION**

Lead Officer – Tony Pomfret, Development Control Manager,

To inform Members of a recent appeal decision at Ghyll Bank House, Inkerman Terrace, Whitehaven.

**Recommendation:** That the decision be noted in the context of the Council's local plan policies and also in relation to performance monitoring.

**Resource Implications:** None

**1.0 SUPPORTING INFORMATION**

1.1 Planning permission for the creation of a new vehicular access to Ghyll Bank House, Inkerman Terrace, Whitehaven was refused on 22 July 2011 for the following reason:-

“The proposed vehicular access is not considered to be a safe and convenient form of access which would result in increased danger to both pedestrian and vehicular road users at variance with Policy DEV6 of the adopted Copeland Local Plan 2001 - 2016.”

1.2 The Council based this decision on the consultation response received from the Highways Authority, who also reiterated their objections on the proposal to the Planning Inspectorate during the appeal process.

1.3 A subsequent appeal against this decision has been ALLOWED as the inspectorate considered that the proposed vehicular access to Ghyll Bank House would not adversely affect highway safety on Inkerman Terrace, and therefore does not conflict with Policy DEV 6.

1.4 The Inspector is of the opinion that the visibility splay, while not meeting the necessary standards in the Government Publication Manual for Streets by 6 metres, is acceptable due to the incline of the road meaning vehicles can decelerate more quickly. In addition, the Inspector disagrees with the Highways Authority that the visibility to the north of the property would be affected by parked vehicles on the adjoining property driveway (No 12 Inkerman Terrace), stating that “any vehicle

parked in front of the garage is likely to be a motor car. It is also likely that the residents of No 12 reverse off the road into their property. It is the bonnet of a motor car that is likely therefore to be closest to the road and the parking of a motor car in front of the garage at No 12 is not likely to obscure visibility.”

- 1.5 The Inspector also concluded that the access will not be an issue in terms of vehicle movements, estimating that there is unlikely to be more than six per day.
- 1.6 A copy of the Inspectors decision letter is attached.

**Contact Officer:** Simon Blacker – Planning Officer

**Background Papers:** Planning application file 4/11/2261/OF1



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## Appeal Decision

Site visit made on 12 December 2011

by **John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

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

Decision date: 20 December 2011

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**Appeal Ref: APP/Z0923/A/11/2159295**

**Ghyll Bank House, Inkerman Terrace, Whitehaven, Cumbria CA28 7TY**

- 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 Anthony Thomas Conoley against the decision of Copeland Borough Council.
  - The application Ref 4/11/2261/0F1, dated 19 May 2011, was refused by notice dated 22 July 2011.
  - The development proposed is change of use from existing pedestrian access into new vehicular access.
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### Decision

1. The appeal is allowed and planning permission is granted for the creation of new vehicular access at Ghyll Bank House, Inkerman Terrace, Whitehaven, Cumbria in accordance with the terms of the application, Ref 4/11/2261/0F1, dated 19 May 2011, subject to the following conditions:

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with approved plan nos. T\_01 and T\_02.
3. The development hereby permitted shall be completed as shown on the approved plans before the vehicular access is brought into use.

### Procedural matter

2. The Council considered the application to be for the 'creation of new vehicular access'. This is an accurate description of the proposed development and the appeal will be determined on this basis.

### Reasons

3. The main issue is the effect of the proposed new vehicular access on highway safety on Inkerman Terrace.

4. Ghyll Bank House is set within an extensive garden area on high ground behind dwellings with south-west frontages onto Inkerman Terrace. Part of the garden area is between 12 and 13 Inkerman Terrace and a pedestrian path leads from the house to a gate in the boundary wall at the back of the footpath alongside the road. Beside the boundary wall to the north of the path is the garage at no.12 and between the garage and the footpath is a parking space. Beyond the boundary wall to the south of the path is the driveway and garage at no.13.

5. The proposed development is for the replacement of the pedestrian path with a vehicular access to Ghyll Bank House. The access would be about 5.5 metres wide for a distance of about 5.5 metres back from the footpath and would then narrow to 4 metres for a further distance of about 5 metres. Boundary walls adjacent to the access, including the boundary wall to no.12, would be lowered to be no more than 0.9 metres high, as would the wall beside the footpath in front of no. 12 for a distance of about 10 metres beyond the parking space.

6. Inkerman Terrace is the main road in to Whitehaven town centre from the south. No traffic surveys have been submitted but evidence indicates that it is a busy road. The site visit was at midday and even at that time, outside morning and evening rush hour periods, there was an almost continuous stream of traffic in both directions. There are traffic lights where Inkerman Terrace meets Loop Road about 200 metres to the south-east of the proposed access. Traffic on Inkerman Terrace is subject to a 30 mph speed limit.

7. Manual for Streets (MfS), a government publication, sets out standards to be applied when designing highway junctions and the provision of adequate visibility splays at a new junction is considered in section 7.7. No traffic speed surveys have been submitted so, for calculation purposes, traffic is assumed to be travelling at 30 mph. A visibility splay is measured, in built-up areas such as that through which Inkerman Terrace passes, from a point in the middle of the new access, 2.4 metres back from edge of the road, to the edge of the nearside footpath in both directions. This is known as the Y distance and, for an access off a road where traffic is subject to a 30 mph speed limit, this should be 43 metres.

8. If existing walls were taken down to be no more than 0.9 metres high as shown on the application plans the Y distance to the right, towards the town centre, would be about 37 metres, and to the left, away from the town centre, about 25 metres. However, Inkerman Terrace is relatively steep up from the town centre and cars approaching from that direction would be able to decelerate more quickly than if the road was level. Consequently, the Y distance to the right, which is only 6 metres less than the MfS standard, is adequate.

9. The Y distance to the left, about 25 metres, is sub-standard. However, traffic approaching the town centre is on the far side of the road beyond its centre line. It is estimated, in this regard, that the Y distance to the centre line of the road is about the 43 metre standard. Within the built up area traffic is unlikely to be exceeding the 30 mph speed limit and though the road slopes down towards the proposed access drivers of vehicles are likely to be aware of vehicular movement at the proposed access well before the 43 metre mark at the centre line of the road.

10. The Highway Authority has pointed out that visibility towards the town centre could be obstructed by a vehicle parked in front of the garage at no. 12. No. 12 is a dwelling and any vehicle parked in front of the garage is likely to be a motor car. It is also likely that residents of no. 12 reverse off the road into their property. It is the bonnet of a motor car that is likely therefore to be closest to the road and the parking of a motor car in front of the garage at no. 12 is not likely to obscure visibility towards the town centre from the proposed access.

11. There are other factors to take into account. The proposed vehicular access is to a single dwelling and vehicular movements into and out of the access are unlikely to be greater than six per day. Traffic backed up at the traffic lights to the south may impede movement into and out of the access during the evening rush hour period but this is unlikely to adversely affect highway safety. The access next

to the footpath is wide enough for two vehicles so a car leaving the property would not prevent a car moving off the road. A vehicle delayed in turning right into the access may impede traffic approaching the town centre but this is not likely to result in traffic backing up beyond the traffic lights on to Loop Road.

12. Taking all the above factors into account the proposed vehicular access at Ghyll Bank House would not adversely affect highway safety on Inkerman Terrace. The proposed development does not thus conflict with saved policy DEV 6 of the Copeland Local Plan.

#### Conditions

13. Apart from the standard time limit condition a condition has been imposed, for the avoidance of doubt and in the interests of proper planning, to specify the approved drawings. Also, in the interests of highway safety, a condition has been imposed to ensure that the development is completed in accordance with the approved drawings before the proposed access is brought into use.

#### Other matter

14. Ghyll Bank House and properties either side of the proposed access are within a Conservation Area. The Council has raised no concerns with regard to the preservation of the character and appearance of the Conservation Area. The Highway Authority considers that granting permission for the proposed vehicular access would make it difficult to resist similar requests for vehicular accesses onto the road. It is, however, a well established planning principle that a development proposal should be considered on its individual merits. This important principle has been followed in this case.

*John Braithwaite*

Inspector