

## PLANNING APPEAL DECISIONS

**Lead Officer:** Tony Pomfret – Development Services Manager

**To inform Members of recent appeal decisions in respect of:**

1. **Erection of Dwelling, 181 High Road, Kells, Whitehaven**
2. **Detached agricultural dwelling, Frizington Parks Farm, Park Street, Frizington.**

**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

#### 1.1 181 High Road, Kells, Whitehaven

1.1.1 Outline planning permission to erect a dwelling was refused on 19 July 2006 for the following reason:-

1.1.2 By virtue of its siting to the rear of existing residential properties with no direct road frontage the proposed development would result in a loss of privacy for the residents of neighbouring dwellings and, as such, the proposal is contrary to Policies DEV 7 and HSG 4 of the adopted Copeland Local Plan 2001-2016.

1.1.3 A subsequent appeal has been ALLOWED. A copy of the Inspector's decision letter is appended to this report.

#### 1.2 Frizington Parks Farm, Park Street, Frizington.

1.2.1 An application for the approval of Reserved Matters for this detached agricultural dwelling was refused on 3 May 2006 for the following reason:-

The proposed dormer bungalow is considered to represent an unsuitable design solution, unsympathetic to its visually prominent rural setting and, as such, is at variance with Policies DEV 7 and HSG 8 of the Copeland Local Plan 2001-2016 2<sup>nd</sup> Deposit Version.

1.2.2 A subsequent appeal against this decision has been ALLOWED. A copy of the Inspector's decision letter is appended to this report.

**Contact Officer:** Tony Pomfret -- Development Services Manager

**Background Papers:** Copies of the Inspectors' decision letters are appended.



# Appeal Decision

Site visit made on 21 December 2006

by Alison Roland BSc DipTP MRTPI

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

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Date: 19 January 2007

**Appeal Ref: APP/Z0923/A/06/2023358**

**181 High Road, Kells, Whitehaven, Cumbria, CA28 9PQ.**

- 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 and Mrs W Tunstall against the decision of Copeland Borough Council.
- The application Ref : 4/06/2411/0, dated 5 June 2006, was refused by notice dated 19 July 2006.
- The development proposed is erection of dwelling.

## Decision

1. I allow the appeal and grant outline planning permission for the erection of a dwelling at 181 High Road, Kells, Whitehaven, Cumbria, CA28 9PQ, in accordance with the terms of the application, Ref: 4/06/2411/0, dated 5 June 2006 and the plans submitted therewith, subject to the following conditions;
  1. details of the siting, design, external appearance of the building and the landscaping of the site (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved;
  2. application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission;
  3. the development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;
  4. full details of the proposed access arrangements shall be submitted to and approved in writing by the local planning authority before development commences. The access shall be completed in accordance with the approved details before construction of the dwelling commences;
  5. the driveway and parking area shall be surfaced in a solid bound material prior to occupation of the dwelling.

## Procedural Matters

2. The application was submitted in outline with all matters reserved other than means of access. I shall determine the appeal on the same basis.

### Reasons

3. The appeal site is essentially a backland plot, but its siting to the rear of existing houses does, not to my mind, render it unacceptable. This is because the plot is of a size which, when coupled with the separation distances from adjoining houses on Ennerdale Terrace and indeed, the appellant's own property, would be sufficient to enable the construction of a dwelling without causing any undue loss of privacy for nearby residents. Although details of siting and detailed design would be considered at the reserved matters stage, it seems to me entirely feasible given the available space, to devise a layout and placing of windows which would maintain privacy both for existing residents and future occupiers of the property. I therefore find no conflict with Policy DEV 7 of the Local Plan. Policy HSG 4 permits housing development in principle within settlement boundaries. Although the explanatory text cautions about the use of backland development, for the reasons outlined above, I do not consider that the absence of a direct road frontage would of itself give rise to an unacceptable loss of privacy to local residents.
4. I appreciate that the current open outlook for some residents on Ennerdale Terrace would change, but given the achievable separation distances, I do not consider that this would be unduly harmful. Although I have been referred to Policies HSG 3 and DEV 4, I am unable to comment on their relevance to this appeal as I have not been furnished with copies.
5. Residents have expressed concern about the highway safety implications of the proposal, particularly given the school opposite. However, this is a residential area with a number of access points and drivers will of necessity travel with care, particularly given the relative proximity of the appeal site to the road junction between High Road and Ennerdale Terrace and indeed, the presence of the school. I therefore cannot accept that the additional traffic generated by a single dwelling would make any appreciable difference to highway safety in the area.
6. The Council have suggested two conditions requiring details of the access arrangements and the solid bound surfacing thereof. Although the application included the means of access as a reserved matter (namely the existing access serving the dwelling), the plan was indicative and the access will need to be modified/extended to serve the dwelling as appropriate. I therefore consider that the conditions are required in the interests of clarity and highway safety.

*ALISON ROLAND*

INSPECTOR



# Appeal Decision

Site visit made on 21st December 2006

by Alison Roland BSc DipTP MRTPI

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

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COPELAND BOROUGH COUNCIL  
DEVELOPMENT SERVICES

Date: 17 January 2007

19 JAN 2007

RECEIVED

Appeal Ref: APP/Z0923/A/06/2020904

Frizington Parks, Park Street, Frizington, CA26 3RB.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to approve reserved matters submitted pursuant to an outline planning permission.
- The appeal is made by Mr A Jackson against the decision of Copeland Borough Council.
- The application Ref: 4/06/2175/0, dated 10 March 2006, was refused by notice dated 3 May 2006.
- The development proposed is agricultural dwelling.

## Procedural Matters

1. Although the application forms indicate the proposal is for a full *and* reserved matters application, the Council treated the application as one for reserved matters pursuant to an earlier outline application (Ref: 4/05/2405/0) and the appellant confirmed this was the correct approach at my visit. The submissions do not state which reserved matters are being submitted for approval. However, the submitted details indicate the siting, design and external appearance of the building and means of access thereto and I shall determine the appeal on the basis that these are the reserved matters for which approval is sought. The outline application also reserved details of the means of disposal of surface water, but this is not detailed on the drawings before me.

## Decision

2. I allow the appeal and approve the reserved matters, namely the siting, design and external appearance of the building and means of access thereto, submitted in pursuance of condition Nos 1 & 2 attached to planning permission Ref: 4/05/2405/0, dated 17 August 2005, for agricultural dwelling at Frizington Parks, Park Street, Frizington, CA26 3RB, in accordance with the terms of the application Ref: 4/06/2175/0, dated 10 March 2006 and the plans submitted therewith, subject to the following conditions;
  1. notwithstanding the submitted plans and details, the roof covering of the dwelling shall be natural blue slate;
  2. the building shall not be occupied until the driveway and vehicle parking area depicted on the plans has been drained and surfaced in accordance with details submitted to and approved in writing by the local planning authority and that area shall not thereafter be used for anything other than its designated purpose.

### Reasons

3. The proposed dwelling would be one and a half storeys high with rooms in the roof space and two small pitched roof dormers on the front elevation. Although not a conventional two storey dwelling, given the exposed position of the site, it seems to me that the overall massing and height of the dwelling would be entirely appropriate and would also relate well in scale and form to the adjacent calving shed which is also of limited height. Indeed, I consider that a two storey structure would appear more prominent and intrusive in this location. In relation to the dormers, these are discrete structures, symmetrically placed on the front elevation and subordinate to the massing of the roof. Although their use on traditional buildings is not widespread in the area, they are not alien features and I saw similar structures on houses in the village.
4. The walls of the proposed dwelling would have a painted rendered finish which is common to the area and the appellant concedes that he would be prepared to utilise natural slate as the roof covering. These materials would in my view, assist the assimilation of the building into its setting.
5. For these reasons, I consider that the proposal would be of a satisfactory design which would be sympathetic to its rural environment. I therefore find no conflict with Policy DEV 7 of the Local Plan, nor the advice in Planning Policy Statement 1 and Planning Policy Statement 7. Policy HSG 8 deals with layout, open space and density of development which does not support the Council's reason for refusal.
6. The County Council have expressed concern that the retention of the frontage hedgerow would interfere with the sightlines from the access. However, given the narrow width of the lane and its poor surface condition, it seems to me that drivers will of necessity be travelling with care and accordingly, I consider it unlikely that the proposal would lead to an increase in conflict between vehicles exiting the site and those using the lane.
7. The Council have requested a condition requiring the use of natural blue slate which I consider appropriate given the rural setting of the site and its use on other houses in the locality. The County Council also suggested conditioning the construction and drainage of the access arrangements. I consider this is necessary to secure a satisfactory form of development and shall adopt the wording in Circular 11/95.

*ALISON ROLAND*

INSPECTOR