

## PLANNING APPEAL DECISION

Lead Officer: Tony Pomfret – Development Control Manager

To inform Members of a recent appeal decision at Land to the rear of 61, 62 & 63 Birks Road, Cleator Moor

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

**Resource Implications:** Nil

### 1.0 SUPPORTING INFORMATION

1.1 Planning permission was refused for the erection of a dwelling on this site in September 2010 on the following grounds:-

“The proposed site is outside the designated development boundary for Cleator Moor. The adopted Copeland Local Plan 2001-2016 states that residential development outside designated key service centres will not normally be permitted unless it can be shown that it is essential to meet exceptional circumstances arising from local, social or economic conditions which would warrant the granting of planning permission. The Local Planning Authority does not consider that there are any exceptional circumstances in this case which would warrant the erection of a dwelling on this site. As a consequence this proposal would be contrary to the objectives of Government Policy set out in Planning Policy Statements 1 and 3 and Policies DEV 2, DEV 5 and HSG 5 of the adopted Copeland Local Plan 2001-2016”.

1.2 A recent appeal against this decision has been DISMISSED. The Inspector concurred with the Councils view that the proposal would conflict with the development strategy set out in the adopted Local Plan. He noted that the site falls outside the development boundary for Cleator Moor and that no evidence of local need has been provided. He also acknowledged that there is pressure to develop nearby land beyond the development boundary and if permission was granted for a dwelling in this location without special justification then it would be likely to add weight to the pressure for further development which is contrary to the aims of the development plan.

1.3 A copy of the Inspectors appeal decision is attached.

**Contact Officer:** Nick Hayhurst – Senior Planning Officer

**Background Papers:** Planning application file ref 4/10/2380/001



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# Appeal Decision

Site visit made on 15 March 2011

by **B.S.Rogers BA(Hons), DipTP, MRTPI**

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

Decision date: 18 March 2011

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**Appeal Ref: APP/Z0923/A/10/2142701**

**Land to rear of 61, 62 & 63 Birks Road, 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 Mrs Debra Amor against the decision of Copeland Borough Council.
  - The application Ref: 4/10/2380/001, dated 4 August 2010, was refused by notice dated 29 September 2010.
  - The development proposed is outline single dwelling or semi-detached affordable homes.
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## Decision

1. I dismiss the appeal.

## Clarification

2. Although the application form refers to "semi-detached affordable homes", the Design and Access Statement, the decision notice and grounds of appeal all indicate the proposal to be for a single dwelling and I have determined the appeal on that basis.

## Main Issue

3. The main issue is the impact of the proposal on the Council's development strategy.

## Reasons

4. Section S38(6) of the Planning & Compensation Act 2004 states that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. In this case, the most relevant parts of the development plan are saved Policies DEV2, DEV5 and HSG5 of the Copeland Local Plan 2001-2016. In short, the policies seek to focus development in Key Service Centres, including Cleator Moor. A development boundary has been defined for Cleator Moor, indicating an appropriate physical limit for development to maintain a compact and sustainable settlement pattern. Beyond this, development will not be permitted unless it is for a specified form of development, including local needs housing or where an exceptional social or economic need can be demonstrated.
5. The appeal site lies outside the development boundary for Cleator Moor. It has permission as a domestic garden and, although it contains a garage, is therefore not classified as previously developed land. I have been provided

with no evidence of any local need for the proposed dwelling. The proposal would clearly conflict with the provisions of the development plan.

6. I saw that there are recently built dwellings to the south of the appeal site. However, these are within the defined development boundary. To the east of the site, and outside the development boundary, is a large, detached dwelling which has been recently erected. However, this was granted planning permission on the basis of a functional and financial need to support the nursery and market garden on which it is sited; the occupancy of the dwelling is restricted to an employee of that business. Therefore, this dwelling was erected in compliance with settlement policy and I do not regard it as providing a context to justify development on the appeal site.
7. The question as to whether the development boundary is appropriately drawn is not a matter for me to determine. It forms part of the formally adopted development plan and any challenge to this should be made via the LDF procedure which is now under way. It is clear that there is pressure to develop nearby land beyond the development boundary and therefore, unless there is clear justification for a dwelling on the appeal site, it would be likely to add weight to the pressure for further development which is contrary to the aims of the development plan. I conclude that the proposal would conflict with the development plan and would be harmful to the Council's development strategy.

*B.S. Rogers*

Inspector