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# Appeal Decision

Site visit made on 5 January 2023

**by S Brook BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 February 2023**

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**Appeal Ref: APP/Z0923/W/22/3304945**

**Land adjacent to Round Close Park, Whitehaven CA28 8UH**

- 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 Graeme Morgan of Sunshine Properties West Coast Ltd against the decision of Copeland Borough Council.
  - The application Ref 4/22/2090/001, dated 5 January 2022, was refused by notice dated 4 August 2022.
  - The development proposed is residential development.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Outline planning permission is sought, with access to be considered at this stage. I have determined the appeal on this basis.
3. A revised indicative Layout Plan Rev A was provided to, and considered by the Council, during the course of the application. This highlighted that the existing route of Public Right of Way (PROW) 431021 would be retained as part of the proposal. I am satisfied that no parties would be prejudiced by my consideration of this revised plan, noting its indicative status in any event.

## Main Issues

4. The main issues are (a) whether this is a suitable location for new housing, (b) the effect of the proposed development on the character and appearance of the area, and (c) the effect of the proposed development on the living conditions of occupiers of neighbouring properties, with particular regard to noise and disturbance.

## Reasons

*Whether this is a suitable location for new housing*

5. Policy ST2 of the Copeland Local Plan 2013-2028, Core Strategy and Development Management Policies, Adopted December 2013 (LP), establishes that development will be located within defined settlement boundaries at an appropriate scale, in accordance with the Borough's settlement hierarchy. I have not been provided with this hierarchy or plans of the settlement boundaries. Nevertheless, there is no dispute between the main parties that the site falls outside the settlement boundaries for both Moresby Parks (defined as a local centre) and Whitehaven (the principal town) and so it lies within the countryside. There is also agreement that the LP settlement boundaries cannot

accommodate the identified housing requirement over the Plan period and so both parties also agree that housing policy ST2, which would be relevant to the determination of the proposal, is deemed to be out-of-date.

6. I am advised that emerging Copeland Local Plan 2021-2038 Publication Draft January 2022 (emerging LP) has now been submitted to the Secretary of State for examination, with emerging LP Policies DS3PU and DS4PU providing the updated approach to development within the settlement hierarchy, along with revised settlement boundaries. However, the Council's Statement of Case confirms that these policies have outstanding objections and so they are afforded very limited weight at this stage.
7. In circumstances where the policies which are most important for determining the application are deemed to be out-of-date, the National Planning Policy Framework (NPPF) requires at paragraph 11d), the granting of permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF, taken as a whole. I will return to this matter later in my decision.
8. The appeal site is comprised of grazing land to the north-east of Round Close Park, a cul-de-sac providing access to a small number of houses. Further grazing land lies to the north and east of the site, with the settlement of Moresby Parks beyond. To the south is a golf course and to the west are further fields, with some dispersed housing. The settlement of Whitehaven lies further west.
9. The village of Moresby Parks has a number of amenities and services, including a primary school and a bus service. Red Lonning links Round Close Park to School Brow, which then leads into the northern extent of the village. At the time of my visit, I observed Red Lonning to be a busy route, where the national speed limit applies. From Round Close Park to School Brow, Red Lonning has no footway or street lighting, which is likely to discourage walking from the appeal site into the village. PRoW 431021 is an alternative route connecting from the appeal site to the southern end of the village. However, this is a narrow and unmade route crossing adjacent fields. The lack of lighting and surfacing would impact on the safety and useability of this route. It would not be suitable for the less ambulant or for pushchairs. As such, this alternative route would not be a reliable route for access to the village to meet day-to-day needs.
10. Alternatively, the settlements of Whitehaven and Hensingham are located to the west and south. However, from Round Close Park, none of the routes into Whitehaven or Hensingham provide pedestrian facilities. To address this, the appeal scheme indicates provision for a footway along Red Lonning between the junctions of Round Close Park and Harras Road to the south. From the Harras Road junction, footpath connections exist into both areas. A feasibility study has been provided indicating that a 2m wide footway would be achievable and such a footway would be a benefit to existing residents of the area as well as the proposed.
11. However, the Highway Authority response does not confirm the acceptability of this proposed footway. It refers to the need for a footway connecting to the existing footway within Round Close Park only. It would not be appropriate to condition such works without some indication of its acceptability to the Highway Authority. Therefore, there remains doubt as to the deliverability of

this footway. No details are provided relating to lighting and the footway would require the crossing of a busy road. Further, this would be a significant length of footway, near to 1km. Highway signage approaching the Harras Road junction indicates that Whitehaven and Hensingham, are a further 1 mile away, with the route from Whitehaven to the appeal site at a steep gradient. Therefore, even if it were deliverable, and having considered the information provided by both parties relating to suitable walking distances, the aforementioned factors would be likely to discourage people from walking this route to access day-to-day services and facilities.

12. Whilst a bus stop is located at Scilly Banks, which is within walking distance of the appeal site, I have not been provided with any timetabling for this stop, in order to establish whether it would provide a convenient alternative to the private car.
13. To conclude on this first main issue, the future occupiers of the appeal proposal would be likely to rely on the private car to meet most of their day-to-day needs. Whilst I appreciate that transport solutions differ between urban and rural locations, the proposal would conflict with LP Policies ST1 and DM22, which collectively, and amongst other matters, seek to ensure that new development is accessible, minimises carbon emissions and the need to travel, provides sustainable transport infrastructure and measures that encourage its use, as well as accommodating access arrangements that make it safe and convenient for pedestrians and cyclists to move around. The proposal would not meet the requirements of the NPPF in terms of actively managing patterns of growth in order to promote walking, cycling and the use of public transport, as an alternative to the private car.

#### *Character and appearance*

14. The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies that the appeal site lies within landscape character sub type 5d: Urban Fringe. This identifies that in West Cumbria, small settlements associated with former mining activities are spread over a ridge and valley landscape, where open green spaces and fields close to settlement edges are sensitive to unsympathetic development. The CLCGT highlights the protection of green areas from sporadic and peripheral development, and the careful siting of new development in non-prominent locations.
15. I am also provided with a Landscape Settlement Study (LSS) for Moresby Parks dated July 2020 (which I understand forms part of the evidence base for the emerging local plan). This identifies Moresby Parks as a nucleated village with an open moorland setting. Rising land to the west of the village is identified as maintaining separation from the outskirts of Whitehaven. The moorland setting is considered to be sensitive to ad hoc development and the separate identity of the village is sensitive to visual and landscape connection with Whitehaven.
16. The proposal would result in the extension of an existing ad hoc area of housing that neither relates physically to the settlement pattern of Whitehaven, nor the nucleated settlement of Moresby Parks. Its prominent position would mean that when viewed from the north and east, it would sit on rising land above Moresby Parks, which lies at a lower level in its moorland setting. In some views from the east, the proposal would reduce the green gap that exists between Round Close Park and Moresby Parks, particularly towards Osprey Gardens, to the extent that from some viewpoints, it would appear as an

extension to the village, at odds with its clearly defined western edge, its nucleated form, and its lower position in the landscape. Whilst I appreciate that the scheme is in outline only, due to its prominent position, residential development of the site would be unsympathetic, harming the setting of the village and thereby eroding its character and identity.

17. To conclude on this second main issue, the proposal would be harmful to the character and appearance of the area, contrary to LP Policies ST1 and ENV5, which collectively, and amongst other matters, seek to protect and enhance the landscape by ensuring development does not detract from the distinctiveness of a particular area. It would be contrary to the advice of the CLCGT, the purposes of which have been set out above. Further, the proposal would not meet the requirements of the NPPF in terms of ensuring that new development adds to the overall quality of the area, is sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst contributing to, and enhancing the natural and local environment.

### *Living conditions*

18. The proposed access would extend between properties 3, 4 and 5 Round Close Park. No 5 sits to the south-east of the proposed access, with the main part of the house set beyond an attached double garage, with no part of the garden lying adjacent to the proposed access. No 4 sits to the rear of No 5, with an access formed off the existing turning head. The driveway leads to a garage that sits between this dwelling and the proposed access. The dwelling itself faces onto the route of the proposed access, with a medium height fence forming the boundary. Part of the large garden of this house would lie adjacent to the proposed access. No 3 lies to the northwest, with the proposed access, running along its flank wall and rear garden. The side elevation of No 3 contains a number of windows, at least two of which appear to serve habitable rooms. A medium height brick and timber boundary wall/fence extends for the full length of the boundary.
19. There is no evidence before me as to the regularity of vehicle movements associated with the existing agricultural use, but I would anticipate that the number of vehicle movements associated with the residential development of the site would result in a material increase, and there may be a need to retain agricultural access to the fields to the east, in any event. The proximity of the access to these dwellings and their private gardens, particularly No's 3 and 4, would cause disturbance from the noise of passing vehicles, headlights, and general comings and goings. This would be particularly intrusive in the evening, when presently there is unlikely to be any regular activity at the site.
20. The proposal would therefore unacceptably harm the living conditions of the occupiers of 3 and 4 Round Close Park with regard to noise and disturbance. It would not comply with LP Policy ST1. In this respect, this policy is consistent with the requirements of the NPPF in seeking to provide a high standard of amenity for existing and future users.

### **Other Matters**

21. I note that the appeal scheme has raised no technical issues and the public footpath through the site would be retained. These are neutral matters that do not carry weight for or against the proposal.

22. I have been referred to two planning permissions relating to development on the edge of Whitehaven, but not adjoining the previous settlement boundary, or with a continuous footpath link provided. However, I have not been given the details of either scheme, in order to establish their relevance to the appeal proposal and in any event, each proposal must be considered on its individual merits.

### **Planning Balance**

23. As set out above, whilst I have not been provided with the evidence, there is agreement between the parties that housing policy ST2, which would be relevant to the determination of the proposal, is deemed to be out of date and NPPF Paragraph 11d) is engaged.
24. I have found that the proposed housing would not be located within an accessible location and so future residents would be largely reliant on the private car to meet their day-to-day needs. The proposal would not therefore meet the requirements of the NPPF in terms of actively managing patterns of growth, in order to promote walking, cycling and the use of public transport, as an alternative to the private car. I have also found harm to the character and appearance of the area, and so the proposal would be contrary to the requirements of the NPPF in terms of ensuring that new development adds to the overall quality of the area and is sympathetic to the surrounding built environment and landscape setting. Further, the proposal would harm the living conditions of occupiers of neighbouring properties, and so it would not meet the requirements of the NPPF for a high standard of amenity for existing and future users. I give this harm substantial weight.
25. The provision of potentially nine additional dwellings would make a positive contribution towards boosting housing supply, along with the associated economic benefits, and I note the level of representation supporting the proposal at the appeal stage. These houses could be designed to a high standard, similar to the existing housing on Round Close Park. However, I also note that the Council has in excess of five years housing land supply and I have not been advised of any issues relating to delivery. I afford these benefits moderate weight.
26. Taking all of this into account, even when considered against the requirements of paragraph 11d) of the NPPF, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF, taken as a whole. Therefore, the proposal would not represent sustainable development for which the presumption in favour applies.

### **Conclusion**

27. The proposed development would conflict with the development plan and there are no material considerations, including the NPPF, worthy of sufficient weight, that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.



INSPECTOR