
Planning Application no. SL/2022/0332

Garden of Castle Mount Burton Road
Oxenholme KENDAL LA9 7PR

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SL/2022/0332

Garden of Castle Mount, Burton Road, Oxenholme KENDAL LA9 7PR



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Summary

SL/2022/0332

PARISH: Oxenholme

Garden of Castle Mount Burton Road Oxenholme KENDAL LA9 7PR

PROPOSAL: Erection of detached dwelling

APPLICANT: Mr and Mrs Meek

Committee date: 16th June 2022

Case Officer: Michael Hoar

The proposed dwelling is located on land immediately adjacent to; but outwith the settlement development boundary. The existing development boundary close to Burton Road is immediately to the west of the site. The development of this area of land for a single self-build dwelling would not represent a rational addition to the existing settlement. This application represents a departure from the development plan.

The application has been called in by Councillor Rathbone on the grounds that he considers it is an 'infill' development, despite being outside the settlement boundary. He believes there is no harm to the visual amenity of neighbours. Furthermore, the applicants having applied to the relevant self-build organisation and the existing dwelling would be freed up for family use.

Recommendation

That the application is REFUSED Planning Permission, on the grounds that the development is situated outside the settlement boundary and would undermine the aims of Policy LA1.1: of the Land Allocations Development Plan Document (DPD).

1.0 Description and proposal

Site Description

- 1.1. The 0.1 hectare application site is an area of open grassed land located on the southern edge of Oxenholme between the recent linear development along Burton Road and a minor road that climbs up the western flank of the Helme.

- 1.2. To the north of the site is a substantial sub-divided detached house set within extensive grounds called Castle Steads with immediately to the south is the applicants existing house Castle Mount. Castle Mount is itself an extended and remodeled bungalow with an integral garage below the ground floor.
- 1.3. There is an established hedge boundary between the garden of Castle Mount and the application site. Access is via a metal field gate onto the private driveway shared by Castle Steads and Castle Mount. The application site appears as a grassed field/paddock, which has a summerhouse and dilapidated greenhouse located at its southern end close to Castle Mount.
- 1.4. The site slopes downwards from north to south and from east to west. The eastern boundary consists of a line of mixed trees and a drystone wall alongside the lane up the Helme. The grass is roughly mown in patches; within the site are a number of trees up to about 5 metres in height.
- 1.5. The site is located in open countryside.

Proposal

- 1.6. The proposal seeks outline planning permission for a self-build house with all matters reserved, access is to be as existing.

Consultations

- 1.7. Natland Parish Council: The Council regards this as an 'infill' site and is happy to recommend approval provided that it does not create a precedent for other 'windfall' sites lying wholly outside existing settlement/development boundaries.
- 1.8. Cumbria County Council: Highways & Lead Local Flood Authority do not object - Existing access onto public road acceptable, consider that the proposal will not have a material impact on highway safety or flood risk.
- 1.9. United Utilities: The proposal should follow the drainage hierarchy in the National Planning Practice Guidance.

Public Responses

- 1.10. A single letter of support from a property to the north has been received, commenting that following the allocations being built out, the character of the area has changed and that this proposal if suitably designed and landscaped would be acceptable.

2.0 Relevant planning history

2.1. None relevant

3.0 Relevant planning policies

National Planning Policy Framework

Chapter 2, Achieving sustainable development

Chapter 4, Decision Making

Local Development Policies

South Lakeland Core Strategy (CS):

Policy CS1.2 The Development Strategy

Policy CS5 The East

Policy CS8.2 Protection and Enhancement of Landscape and Settlement Character

Policy CS8.7 Sustainable Construction, Energy Efficiency and Renewable Energy

Policy CS8.10 Design

Policy CS10.1 Accessing Services

Policy CS10.2 Transport Impact of New Development.

Local Plan Land Allocations DPD:

Policy LA1.1 – Development Boundaries

South Lakeland Development Management Development Plan Document Policies (DM)

Policy DM1 – General Requirements for all development

Policy DM2 Achieving Sustainable High Quality Design

Policy DM 11 Accessible and Adaptable Homes

Policy DM12 Self-Build and Custom Build Housing

4.0 Assessment

- 4.1. CS1.2 of the Core Strategy supports new residential development within the Local Service Centres, including Oxenholme. Policy LA1.1 of the LADPD defines the settlement boundaries for Oxenholme and confirms that the development needs of the settlement between 2010 and 2025 will be met within the settlement boundaries.
- 4.2. The site is located on what appears to be grassed open land accessed via an agricultural type gate. The application suggests that it forms part of the garden ground associated with Castle Mount, however it does not appear to have been intensively cultivated or maintained as would be expected with a domestic garden. Between the site and the plot associated with Castle Mount is a mature and well maintained hedge boundary. This hedge forms a clear visual and physical boundary between the maintained and planted garden associated with Castle Mount and the open rough grassed and minimally maintained paddock to the north. The paddock is located adjacent to the house and garden, but planning records indicate that it has not always been within a single ownership with Castle Mount.
- 4.3. In terms of Policy CS1.2 of the Core Strategy, the application site is considered as open countryside. Policy CS1.2 is clear that “Exceptionally, new development will be permitted in the open countryside where it has an essential requirement for a rural location, is needed to sustain existing businesses, provides for exceptional needs for affordable housing, is an appropriate extension of an existing building or involves the appropriate change of use of an existing building”.
- 4.4. The overriding purpose of Policy CS1.2 is to direct development in accordance with the settlement hierarchy. Part of this approach is to restrain development pressure on the edges of the larger more sustainable locations to prevent the ‘sprawl’ of development beyond identified boundaries. Preserving the form and character of a settlement is a key consideration and if left unrestrained development could create undesirable ‘sprawl’ or extension of development. The edges of settlements are particularly sensitive to ‘ad hoc’ development. The outcome in practical terms of this policy restraint is that as soon as a boundary is defined in policy, it will be challenged.
- 4.5. The application site is located outwith but directly adjacent to the development boundary for Oxenholme as defined in the LADPD. Development boundaries are a mechanism to ensure that new homes and workplaces are delivered in sustainable

locations and to protect the character of the surrounding landscape. Policy LA1.1 is clear that “Between 2010 and 2025 the development needs of these settlements will be met within the development boundaries defined on the policies map”. Oxenholme contains two residential allocations that are intended to meet the development needs for the settlement over the lifetime of the local plan without having to encroach beyond the defined settlement edges into the open countryside. Immediately to the west of the site is allocation LA1.3 Land East of Burton Road has been recently built out with open market properties, similarly allocation LA1.3 Land South of Fell Close is currently being built out as sheltered housing.

- 4.6. It is a matter of fact that the development boundaries were drawn based on a number of criteria. These included (but not exclusively) the physical and visual characteristics, prevailing settlement pattern, willing landowners, availability of access and services and the availability of land for developments that will yield more than single houses. Suitable sites for development of single house plots within larger and smaller settlements and the open countryside are identified via the settlement hierarchy of the Core Strategy, with the development of housing in smaller settlements and the open countryside further refined by policies DM 12 & DM13.
- 4.7. Notwithstanding the above, the development plan provides via Policy DM12 Self Build and Custom Build Housing, DM13 Housing Development in Small Villages and Hamlets (Outside the AONB) and DM14 (Rural Exceptions) ample scope for small and windfall sites provided that for each form of housing the qualifying criteria are met.
- 4.8. The applicant’s agent states that the proposal is a self-build and that the applicant is on the Council’s self-build register. The SLDC Council Plan contains a target for 500 self-build homes by 2025 with Development Management policies that are supportive of this aspiration to provide self–build homes.
- 4.9. The relevant policy for self-build is Policy DM12, which states that the following locations are considered appropriate in principle for self-build and custom build housing and will be considered positively in determining applications:
 - a. within Principal, Key or Local Service Centres;
 - b. within or on the edge of small villages and hamlets in accordance with Policy DM13 (Housing Development in Small Villages and Hamlets);
 - c. on rural exception sites in accordance with Policy DM14 (Rural Exception Sites).

- 4.10. Oxenholme is a local service centre; but as the site is not within the settlement boundary; it cannot comply with criterion a) whilst criterion b) cannot apply as the site is not considered as within or on the edge of a small village or hamlet (without a settlement boundary, which is covered by a separate policy DM13); whilst the third criterion c) refers to rural exceptions sites within Policy DM14.
- 4.11. Furthermore in order to comply with Policy DM14, as a single new house to be considered as a rural exception it will require to demonstrate need, a local connection and be affordable in perpetuity; although the application suggests that the house would be affordable, it does not identify any mechanism by which this will be achieved. Notwithstanding any such a mechanism, such an arrangement or agreement for a single house is fraught with difficulties in terms of relating build costs, agreed house values to the affordable price cap. It should be noted that whilst DM14 does provide limited scope for some open market dwellings on larger exception sites to facilitate the provision of affordable units, for this application, it is only a single house that is under consideration. Slightly confusingly, the application form also identifies that the site is for market housing.
- 4.12. The applicant's agent comments that self-build represents a form of affordable housing, however this is perhaps a 'smokescreen' as the point that whilst it may be more cost effective (affordable) for those who carry out the development. In reality, it is a slightly cheaper market house because it can only be occupied by the owner as their main residence, but it does not comprise an affordable dwelling. For it to be judged affordable, the Council has reduced price in-perpetuity requirement and local connection requirement would need to be applied.
- 4.13. The proposal therefore fails to meet the requirements of Policies DM12 and DM14 and is considered as unacceptable in principle.
- 4.14. The inescapable fact of this application is that the development boundary does not include the application site or the host dwelling Castle Mount or the land and houses to the north and south. Therefore, the application site is considered as Open Countryside and represents a departure from the Development Plan. The relevant National and Local Plan policies relating to development in the open countryside are clear in directing development to sustainable locations and to protect landscape and settlement character.
- 4.15. There are a large number of properties with land or gardens within the District that either abut or are split by development boundaries. It is an unfortunate fact of the plan making process that there will be an immediate tension created by putting a line on a map that denotes a development restraint or conversely facilitates development potential. It is almost inevitable that the presence of a settlement

boundary line on these edge of settlement locations will create a pressure for development. However, the Local Plan makes ample provision for smaller scale and single house sites in appropriate circumstances.

- 4.16. The applicant's agent suggests that the site is part of the domestic garden at Castle Mount and as such should be considered as 'brownfield' and therefore its redevelopment should be looked upon favorably. However, the assertion by the applicant's agent that this is garden ground has to be questioned?
- 4.17. It is accepted that the land is in the ownership of the current occupiers of Castle Mount; however, on examination of the planning history for the site and ownership plans, it would appear that the land previously was in a separate ownership. Simply because an area of land is owned and used as an extension to an existing domestic garden, does not mean that it has a lawful use as garden land or that it benefits from permitted development rights. Such rights include the erection of garden type structures those structures. Given the planning history for the site, the physical evidence of the boundary hedge, its general appearance and character do not give weight to the assertion that the paddock forms a part of the accepted formal garden ground relating to Castle Mount. There may be a case that the paddock may have an established use as garden land, however that is separate to and is not the basis on which this application is being argued.
- 4.18. The fact is that the site for the dwelling whether it is or is not garden land is considered in policy terms as 'open countryside' and therefore a departure. Looking to the future the issue of the settlement boundary could be addressed by seeking the inclusion of this area and other adjacent land to form a cohesive allocation via the Local Plan allocations review. However, Members have to determine this application in the light of current adopted policy.
- 4.19. The agent also suggests that the site and the houses to the north and south should have been included within the settlement boundary for Oxenholme. It is also intimated that with the recently completed Rochester Gardens development to the west of the site and fronting onto Burton Road has made the character of the area residential. However, there is a distinct difference between the terraces of Oxenholme village, the linear development around the petrol station and the tight knit and constrained linear form of Rochester Gardens when compared to the original more spacious and loose knit form of the Castle Gatehouse, Castle Mount and Castle Steads. Effectively the agent is making an argument that regardless of the development boundary the site should be read as part of the village of Oxenholme. If this approach were to be taken on all edge of settlement

development boundaries, then it would in effect undermine the purpose of defining such boundaries.

- 4.20. No details are provided of the proposed design and layout for the dwelling or of any landscaping. The agent has confirmed that the applicants are of an age where the current house is too large for them and they would prefer a house better suited to their needs more energy efficient, to include high levels of insulation, solar gain, solar panels, electric car hook-up and a more manageable size of garden with an uplift of biodiversity. It would also release a larger family home to the market. Equally, these requirements could also be met within existing new build developments in the Kendal area. Undoubtedly an appropriate house design and landscaping could be accommodated within the area of land
- 4.21. The nearest property to the site is the applicants existing dwelling Castle Mount. Notwithstanding the fact that this is currently within the same ownership, it is likely that it will be disposed of in the future. The property to the north Castle Steads is at a higher level and is at a distance of 65 metres, Rochester Gardens is at a lower level approximately 50 metres to the west. Given the relative plot size, it is considered that the impact of the proposed dwelling on neighbouring amenity would be limited.
- 4.22. The proposed house is to be accessed via the existing private access road that serves both Castle Mount and Castle Steads. The access bellmouth onto the A 65 is within the 30 mph restriction. CCC Highways have not made any objections or adverse comments relating to the use of this access. No concerns are raised regarding surface water drainage or flooding issues
- 4.23. United Utilities have provided a standard response that recommends that the applicant follows the Drainage Hierarchy and there are no objections to the proposal based on drainage or flood risk.

CONCLUSION

- 4.24. This application is considered a departure from planning policy and members will be aware of the nuanced arguments for and against edge of settlement development. The agent has referred to a number of cases that have been determined by the Planning Committee or have been subject to appeal. All of these were determined on their individual merits with the only common theme was that they were located close to or abutting a development boundary. Any argument regarding the relevance of the development boundary has been reviewed via the Land Allocations process.

- 4.25. In recommending refusal, the case officer is acutely aware that each case should be determined on its own merits. There is continuing pressure for development on the edge of local service centres and the need to resist this in policy terms is clear.
- 4.26. The case officer is aware that there has been case law that supports the development of garden land as 'brownfield' sites, however as discussed above there is some doubt whether the application site can be considered as domestic garden ground. Notwithstanding the policy position taken by the NPPF, it still retains resistance for the inappropriate development of residential gardens.
- 4.27. Although the self-build aspect is relevant, the site does not meet the relevant criteria set out within DM12. Whilst the policy is proactive and supportive of self-build development; DM12 should not be read as a 'carte blanche' to facilitate the development of new dwellings in isolation or un-related to existing settlements or in locations that have an adverse visual or landscape impact; but has to be considered in conjunction with DM13 and the primacy of the settlement hierarchy set out in Policy CS1.2.
- 4.28. The agent's statement does not put forward any argument that the site has an essential need for a rural location or that it provides 100% affordable housing as an exception site in accordance with Policy DM14, only that it should be considered more favourably as it is for a self-build plot and forms a more logical boundary to the settlement. Notwithstanding in strict policy terms the proposal remains contrary to the Adopted Development Plan.

5.0 Recommendation

- 5.1 The recommendation is to refuse for the following reason:

(1) The proposed development is located outside the settlement boundary for Oxenholme and is therefore contrary to Policy LA1.1 of the Land Allocations Development Plan Document, the purpose of which is to ensure that new homes are delivered in sustainable locations and to protect the character of the surrounding landscape. The proposal will therefore not be in a sustainable location and will be harmful to the character of the surrounding landscape. As such, it would be contrary to policies LA1.1 of the Land Allocations Development Plan Document, CS1.2 of the South Lakeland Core Strategy and DM12 of the Local Plan Development Management Polices Development Plan Document.