
Appeal Decision

Site visit made on 11 August 2020

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2020

Appeal Ref: APP/A2335/W/20/3250683

Garage off Brookhouse Road, Caton LA2 9RG

- 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 Ian Quinn against the decision of Lancaster City Council.
 - The application Ref 19/01240/FUL, dated 1 October 2019, was refused by notice dated 24 December 2019.
 - The development proposed is the change of use of existing garage to single dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Ian Quinn against Lancaster City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development set out above has been taken from the planning application form. However, the description of development found on the decision notice and appeal form better reflects the scheme that is before me. I have considered the proposal on this basis.
4. The appellant has submitted various plans and supporting documents with their appeal. None of these were before the Council when it determined the planning application. The appeal process should not be used to evolve a scheme, but the plans and supporting documents do not change the development proposed and the Council has responded to them in their Appeal Statement. As such, I have reached my decision having regard to them.
5. During the appeal, the Council adopted A Local Plan for Lancaster District 2011-2031 Part One: Strategic Policies and Land Allocations DPD (LP1) and A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD (LP2). LP1 and LP2 now form the Development Plan for the administrative area of Lancaster and replace policies within the Lancaster District Core Strategy, saved policies in the Lancaster Local Plan 2004 and A Local Plan for Lancaster District 2011-2031 Development Management DPD, December 2014. Both parties have been given the opportunity to comment on the changed policy position and I have taken into account any comments received in reaching my decision.

Main Issues

6. The main issues are: a) whether the appeal building would be safe from

flooding; b) whether the appeal building is structurally sound and capable of conversion; c) whether the proposed development would conserve and enhance the Forest of Bowland Area of Outstanding Natural Beauty (AONB); and d) whether adequate arrangements would be made for the disposal of foul and surface water from the site, and the effect of these on existing trees.

Reasons

7. The appeal site lies between, and close to the villages of Brookhouse and Caton. It is not isolated. Fields, to the east of the site and to the north and south of the road, provide an open rural character and a link to the Bowlands Fells to the south and the flood plain of the Lune Valley to the north. Traditional buildings and modern residential development characterise both villages. Originally the building was built as a scout hut, but it is currently used by a small-scale haulage business.

Flooding

8. The site lies within Flood Zone 2, but Flood Zone 3 broadly extends along the top of the banking lining Artle Beck next to the access track to the side of the appeal site. Flood risk from Artle Beck is fluvial. Land in Flood Zone 2 has a medium probability of flooding and has between a 1 in 100 and 1 in 1,000 annual probability of river flooding. The proposed residential use is classified as 'more vulnerable'.
9. The building's floor level is 26.55 AOD which is above the 1 in 100 year event level of 26.25 AOD. However, LP2 Policy DM33 and the Planning Practice Guidance (the Guidance) require scheme's to demonstrate how flood risk will be managed now and over the development's lifetime, taking climate change into account along with the vulnerability of its users. When climate change is accounted for, the building's floor level would be around 200mm below the 1 in 100 year event. The same situation would apply even without climate change being accounted for in respect of a 1 in 1,000 year event. Thus, the proposal is likely to be affected by flooding in the future.
10. While new doors may be raised up above the external ground levels, flood waters could still enter the building through the large opening facing the road as no changes are proposed. There are also no details of the dry lining system before me. Electrical services could be provided above possible flood levels, and future occupants could receive flood alerts from the Environment Agency, but the proposal does not include safe, suitable and appropriate flood prevention and mitigation measures as part of its design to ensure that the development is flood resilient and resistant for its lifetime.
11. The appellant suggests that such measures could be conditioned, but I am not certain that the appeal building could be made safe from flooding. Accordingly, I conclude that conflict would arise with LP2 Policies DM29 and DM33 together with paragraphs 163 and 164 of the National Planning Policy Framework (the Framework) which jointly seek to ensure that development in areas at risk of flooding is appropriately flood resistant and resilient for its lifetime.

Whether capable of conversion

12. The principle of re-using buildings within rural area is supported by LP2 Policies DM47 and DM49 subject to several criteria. The proposal would change the use of the existing building and so is acceptable in principle subject to compliance with other development plan policies. Having regard to criterion ii) of LP2 Policy

DM49 the appeal building is of a permanent and substantial construction.

13. A Structural Inspection (SI) report concludes that the building is structurally suitable for conversion. The existing roof would be retained but strengthened as localised overstressing of timber elements of the roof frame has occurred. Also, some bracing will be required for the walls. I note the Council's point about further assessments being needed about the portal frame, but I agree with the SI that the frame is plumb and true to line. Given the professional recommendations of the SI, I consider that the specific work recommended in the SI could be subject of suitably worded planning conditions based on my own observations.
14. As such, I conclude on this issue that the appeal building is structurally sound and capable of conversion. Hence, the proposal accords with LP2 Policies DM47 and DM49 which, among other things, require buildings to be of a permanent and substantial construction, and structurally sound and capable of conversion.

Forest of Bowland AONB

15. The building and land could continue to be used in the manner established in the Lawful Development Certificate granted in 1997. LP2 Policies DM47 and DM49 do not require them to be worthy of retention.
16. The appeal building differs from nearby buildings, but the proposal would not alter the shape, scale, form, proportion or orientation of the building which is nestled amongst and next to existing trees and shrubs that populate the site and the banks of Artle Beck. These, together with its position set back from the road mean that it is not a jarring feature in the site's context. The timber cladding on the building's flank elevations assist in this regard. The proposal would maintain these finishes and rationalise the amount of glazing, which would, in turn, increase the use of timber on each elevation, save for the gable elevation facing the road which would remain unchanged. A planning condition could be imposed to secure suitable external materials. The proposed fenestrations would be modest and respond to the character of residential properties in the area, while the extent of hardstanding in front of the building would be unchanged. Thus, the key difference would be the building's use.
17. This leads me to conclude, in respect of this issue, that the proposed development would conserve the AONB, to which I attach great weight. The proposal would accord with LP1 Policies EN2 and EN3, LP2 Policies DM1, DM4 and DM46 along with Framework paragraph 172. Collectively, these policies, seek developments to contribute positively to the identity and character of the area through their siting, scale, massing, materials, landscaping and design so that they conserve and enhance the landscape and scenic beauty in the AONB.

Foul and surface water and trees

18. The plans show the location of and extent of trees on and next to the site. The Root Protection Area's (RPA) of each tree are also shown along with ground levels of the site and for land to the north, south and west of the site. The ground slopes slightly from east to west between the site's two flank boundaries at the rear of the building.
19. As the nearest public sewer is some distance away, and following the hierarchy in LP2 Policy DM35, a package treatment plant is proposed in the south-west corner of the site near to T1 and T2. The plant would be outside of the RPA for

both trees which are categorised as B2 specimens. The discharge for the plant would be via an outflow into Artle Beck. Precise details of this are not before me, but planning conditions could be imposed so that such details are secured to ensure that the treatment plant and any associated infrastructure effectively dispose of wastewater, are flood resilient and prevent the contamination of surface and ground waters. Such a condition would also allow for proper consideration of the visual impact of the headwall in relation to trees on and off the site given that there is sufficient scope near to the site to accommodate the proposed means of foul drainage.

20. While the appellant no longer proposes to re-grade the land to the rear, planning conditions would be appropriate to secure suitable tree protection measures and a method statement relating to the installation of the treatment plant. These should ensure that T1 and T2 continue to contribute to the setting of the site and the AONB and ensure that appropriate connections are made.
21. No changes are proposed to the building's roof or the area of hardstanding. Nor are changes to the ground levels proposed. Consequently, the status quo for surface water drainage would be maintained with waters discharging into the ground conducive to infiltration (where possible) and/or into Artle Beck.
22. I conclude, on this issue, that adequate arrangements could, subject to planning conditions, be made for the disposal of foul and surface water from the site, and so that the proposal retains existing trees on and off the site. On this basis, the proposal would accord with LP2 Policies DM4, DM29, DM34, DM35, DM36, DM44 and DM45. Jointly, these seek development, among other things, to dispose of waste water effectively and efficiently whilst preventing detrimental impacts on surface water and groundwater, to manage surface water sustainably in accordance with the Surface Water Drainage Hierarchy, and to protect and conserve biodiversity/trees that positively contribute to the visual amenity, landscape character and/or environmental value of the location.

Conclusion

23. Even if the appellant is correct about the Council being unable to demonstrate a five-year supply of deliverable housing sites, then the policies relating to the risk of flooding found in the Framework provide a clear reason for refusing the development proposed despite my findings in respect of the other main issues.
24. For the reasons set out above, I conclude that the appeal is dismissed.

Andrew McGlone

INSPECTOR