



Appeal Decision

Site Visit made on 20 July 2021

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 17th August 2021

Appeal Ref: APP/A2335/W/21/3272425

110 Quarry Road/ 36 Dumbarton Road, Lancaster, Lancashire LA1 1TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Quarry Rd Ltd against Lancaster City Council.
 - The application Ref 20/00393/FUL, is dated 24 March 2020.
 - The development proposed is conversion of lower ground floor the creation of 4 self-contained studio flats (C3) for student accommodation, provision of entrance porch, bin and bike stores, and construction of external staircase and retaining wall.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Quarry Rd Ltd against Lancaster City Council. That application is the subject of a separate Decision.

Procedural Matters and Background

3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021 before the appeal was determined. The parties have been provided with the opportunity to comment on the implications of the revisions to their cases. I have taken account of the revised Framework and any comments in my determination of the appeal.
4. I have taken the address from the appeal form in the banner heading above as this more accurately identifies the location of the appeal site than the address in the application form.
5. The development is described in the application form as 'change of use of lower ground floor from Public House (A4) to form 4 self-contained studio flats (C3) for student accommodation, erection of external bin and bike store'. However, in the interests of clarity, I have adopted the description from the appeal form in the banner heading above.
6. Subsequent to its use as a public house, the appeal building has been the subject of numerous enforcement notices, planning applications and appeals. Planning permissions¹ have been granted for the change of use of ground, first and second floors to student accommodation. A condition imposed on the planning permission relating to the ground floor secures the use of part of the lower ground floor for storage purposes.

¹ Planning permissions refs 18/00860/FUL, 18/00891/FUL and 19/00017/FUL

7. The application form indicates that the work or change of use has not already started. However, while the lower ground floor is not in or suitable for residential use, some works to convert it have been carried out and the Council considers that the application is partly retrospective. At the time of my visit, I saw several window and door openings in the courtyard walls that are not indicated on the submitted plans. For the avoidance of doubt, I have determined the appeal strictly on the basis of what is shown on the application drawings as opposed to what is currently present on the ground.
8. The Council failed to determine the application within the prescribed time limits. However, in its evidence Council has stated that had it been in a position to determine the application it would have refused permission on grounds relating to the living conditions of future occupiers.

Main Issue

9. Therefore, on the basis of the evidence before me, the main issue is whether the proposal would provide an adequate standard of living accommodation for future residential occupiers, with particular regard to outlook.

Reasons

10. The appeal relates to the lower ground floor of the former Moorlands Hotel, a large detached building occupying a prominent corner location. The ground, first and second floors have been converted to student accommodation, although works are not yet complete in accordance with the approved plans. The appeal building is in a primarily residential area within a short distance of the centre of Lancaster. Shops, services and the university are accessible from this location by sustainable forms of transport. Consequently, the location is suitable for new residential development, including student accommodation.
11. In addition to a large store room, the proposal would provide 4 studio flats and an external shared courtyard. The flats would range in size from 32 to 48 sqm, and they would provide for the self-contained daily needs of future occupiers in terms of separate areas for living room, kitchen, bedroom and ensuite facilities. The proposal would provide an adequate extent of internal living space for future occupiers.
12. Flat No 3 would be served by 1 window facing into the enclosed courtyard to the rear of the building. It would be less than 7m from the single storey wall on the opposite side of the courtyard. The side wall of the courtyard opposite Flat 7 would also be prominent in the view from Flat 3, due to its proximity and tapering alignment. From locations immediately next to the window, it would be possible to see the tree foliage above the courtyard wall. However, from deeper within the flat, it would only be possible to view the courtyard wall. Therefore, there would be a poor outlook from Flat 3.
13. Flat 4 would also be served by 1 window facing into the courtyard. It would be directly facing and roughly 4.3m from the walled entrance and roughly 5.7m from the courtyard wall beyond the porch. It would look obliquely towards the external wall and windows serving Flat 7. As with Flat 3, from locations immediately adjacent to the window, views would be afforded of tree foliage above the courtyard wall. However, the close views of the walls of the building and courtyard would result in a poor outlook for future occupiers of Flat 4.

14. Flat 6 would be at the front of the building, accessed via steps leading down from the Quarry Road footway into the living and kitchen area. The suggested glazed external door would allow light into the living area and it would afford views of the stairs, footway and road. The living area would additionally be served by 2 windows. The one in the front elevation would be a little over 2m from the front boundary wall, resulting in a poor outlook. With the removal of the boundary wall and its replacement with metal railings, and taking into account the height of the window relative to the road, from a standing position the window would afford close views over the footway to the road. The window in the side elevation would be less than 1m from an external site boundary wall, resulting in a poor outlook.
15. Flat 7 would be the largest of the flats and the evidence suggests it would be served by 4 windows. The principal room windows serving the living room and bedroom would be roughly 8m from the facing courtyard wall. The side wall of the entrance porch would be immediately adjacent to the living room window, while the bedroom window would look out along the 3 storey elevation of the building. The study room window in the side elevation would be roughly 1m from the boundary wall. The kitchen window would be close, and at a right angle, to the study window with close views of the side elevation and boundary walls. Consequently, there would be a poor outlook from Flat 7.
16. The Daylight Assessment indicates that the proposal would meet the internal daylight levels recommended in national guidance². However, the assessment appears to relate to a scheme of 5 flats and a different layout to the proposal. While it may not be entirely accurate, the daylight distribution diagrams illustrate that, particularly for Flat Nos 3 and 4, much of the accommodation would be enclosed and dark and heavily reliant on artificial light. In any case, adequate internal daylight levels would not mitigate for the poor outlook.
17. Therefore, the proposal would fail to provide an adequate standard of living conditions for future occupiers, with particular regard to outlook. It would conflict with Policy DM29 and Appendix G of A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD Adopted July 2020. These require, among other things, that development avoids significant detrimental impacts to amenity, that it provides an adequate outlook from windows, and habitable room windows in particular. The proposal would fail to satisfy the minimum separation distances between windows and walls required by the DPD. It would also conflict with the residential amenity aims of the National Planning Policy Framework.

Other Matters

18. Full details of the student accommodation at ground and upper floor levels in the building are not before me. However, it seems unlikely that it would be directly comparable to the appeal scheme. This is at least partly because the separation distances between the upper floor windows and neighbouring structures would be greater than at lower ground floor level. Therefore, the accommodation at ground level and above does not justify the proposal.
19. My attention has been drawn to planning permissions elsewhere, where apparently substandard separation distances from windows were accepted. Full

² BRE report 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and BS8206: Part 2 'Lighting for Buildings – Code of Practice for Daylighting'

details have not been provided and I am not familiar with the particular circumstances of those schemes. I cannot therefore be certain that they are directly comparable to the appeal scheme, either in terms of outlook and separation or the policy context at the time they were determined. Therefore, they do not provide a justification for the appeal scheme, which I have considered on its own merits.

20. While the proposal might be suitable for use as visitor accommodation, this does not weigh in favour of the appeal proposal which would be full-time student accommodation.
21. The former Moorlands Hotel is a late 19th century building with significant architectural interest and the evidence indicates that it is a non-designated heritage asset. The internal works to convert the lower ground floor to residential use would not impact on the significance of the heritage asset. Subject to the acceptability of details and materials, the external staircase, bin and cycle stores and boundary treatments, would not harm the significance of the heritage asset. These matters could be addressed by planning condition, but they are neutral factors that weigh neither for nor against the scheme.

Conclusion

22. For the reasons set out above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
23. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR