
Appeal Decision

Site visit made on 24 January 2022

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 31 January 2022

Appeal Ref: APP/A2335/C/21/3281033

112 Kellet Road, Carnforth, Lancashire LA5 9LR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Daniel Wright against an enforcement notice issued by Lancaster City Council.
- The enforcement notice was issued on 13 July 2021.
- The breach of planning control as alleged in the notice is the creation of a new vehicular access on the front of the Land, onto a classified road; B6254 Kellet Road.
- The requirements of the notice are:
 - i. Reinstate a permanent boundary wall in materials similar to those that were in situ at a similar height prior to the development which will prevent motor vehicle access to the front of the Land.
 - ii. Remove any resultant building materials from the Land, including any that are obstructing the public footpath.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld with a correction.

Preliminary Matter

1. I have noted that paragraph 3 of the Notice refers to the B62540 whereas the correct reference should be the B6254. This can be corrected without causing injustice to the main parties.

The appeal on ground (a)

2. The ground of appeal is that planning permission should be granted. The main issues is the effect on highway safety with particular reference to the proximity of the development to a pedestrian crossing.
3. The appeal site comprises the land immediately to the front of 112 Kellet Road which is a two storey detached residential property. It is situated close to the junction of Kellet Road and Highfield Road. The site is in a prominent location and has a small boundary wall which provides a relatively open frontage and side. There is a predominance of residential properties in the locality but other uses including a bowling club, shops, Carnforth High School, Community Swimming Pool and Our Lady of Lourdes Catholic Primary School.

Highway Safety

4. Kellet Road is a two way carriageway which is subject to a speed limit of 20 miles per hour. It has a single lane in either direction with 2 metre dashed

centre line markings with 4 metre spacings. In the immediate vicinity of the appeal site is a controlled pedestrian crossing as well as the entrance to the High School, Primary School, swimming pool and the junction of Highfield Road. It is my understanding that accident data shows that there has been a single serious road traffic accident in the immediate vicinity of the site's access with Kellet Road. At my site visit I observed that the zig-zag lines associated with the pedestrian crossing are situated across the vehicular access that has been created.

5. The access point is very close to the pedestrian crossing which is only approximately one metre away. The residential property served by the development would only generate a few traffic movements, but as there was no vehicular access to the site before the unauthorised development took place, there would be an overall net increase. The close relationship causes significant concerns that pedestrians using the crossing may be obscured from other highway users by vehicles entering or exiting the appeal site. This level of concern is exacerbated by the proximity of a number of uses in the immediate locality which may give rise to a high number of pedestrians and other highway users at certain times of the day. The schools and swimming pool are likely to generate users throughout the day and high pedestrian footfall at peak times when school pupils are arriving and leaving.
6. The arrangement within the appeal site is restrictive for parking and manoeuvring vehicles and therefore it is likely that vehicles would need to reverse either into or out of the site. Visibility for such manoeuvres is restricted by the existing wall between Nos 110 and 112. The close proximity of the pedestrian crossing means that it would be difficult for a driver exiting the appeal site to see the traffic signal and furthermore, pedestrians waiting to cross the road would also have restricted visibility to the east if a vehicle was using the proposed access.
7. The appellant has drawn my attention to other access driveways in the locality, but I do not have the details of the specific circumstances that led to them being approved or even whether they benefit from planning permission. It may be that other access points were approved at a time when highway conditions in the area were very different to what they are now. In any case, I have dealt with this case on its own merits taking account of the evidence before me. I have also taken account that the appeal development is on the approach to the pedestrian crossing rather than as vehicles leave the crossing, which increases my concerns regarding levels of visibility and conflicting traffic movements in the immediate locality.
8. The appellant has drawn my attention to other potential obstructions to highway visibility in the area such as vehicles parking outside properties towards a nearby industrial estate and garage. Rather than providing justification for the access that has been created, the obstructions identified give rise to further concerns with respect to visibility along this stretch of road.
9. The appellant has also stated that as a consequence of their general travel patterns it is unlikely that vehicles would be using the access during peak times. That may be the case but may not always remain so. It would not be reasonable to impose a planning condition to regulate the times of use of such a residential related vehicular access.

10. I have also taken account of the potential hazard that may be caused by vehicles from the property being parked on the highway but am satisfied that restrictions in the vicinity of the site can satisfactorily control on street parking. In addition, there are already measures in place to protect pedestrians such as the crossing itself and a speed camera close to the site to enforce the speed limit. However, those matters do not overcome the concerns I have with respect to highway safety given the relationship between the development that has been carried out and the adjacent pedestrian crossing.
11. I understand that Lancashire County Council indicates that where possible there is a desire to encourage residents to garage or park their vehicles off the road. The County Council's specific guidance on new drop crossings in the Code of Practice Vehicle Crossings October 2017 sets out the main criteria which are applied to applications for vehicle crossings relating specifically to the effect on the safe passage of vehicular traffic. It states that the circumstances of each application are determined on their own merits and applications may be refused if, among other criteria, the property is within the zig-zag markings of a controlled pedestrian crossing. Although not planning policy, it is very clear that issues such as this are important factors when determining highway safety concerns and vehicular accesses.
12. Therefore, the development has a harmful effect on highway safety with particular reference to the proximity of the development to a pedestrian crossing. As such it conflicts with Policy DM29 of A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD Adopted Version July 2020 and the National Planning Framework. Among other objectives, these expect development to ensure highway safety and efficiency is maintained or improved.

Other Matters

13. The appellant has stated that their planning application for the crossing was based on pre-application advice; however, such advice is not binding on a Council. In any case it is clear to me that the application was decided on its own merits and the Council subsequently determined it expedient to serve the enforcement notice which is subject to this appeal.

Conclusion

14. For the above reasons and taking account of other matters raised I conclude that the appeal is in conflict with the development plan as a whole and should be dismissed.

Formal Decision

15. I direct that the enforcement notice shall be corrected by the deletion from paragraph 3 of "B62540" and the replacement therefor of "B6254".
16. Subject to this correction the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR