

Appeal Decisions

Hearing held on 25 and 26 January 2022

Site visit made on 27 January 2022

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 May 2022

Appeal A Ref: APP/A2335/W/21/3270187

Royal Oak Hotel, 73 Main Street, Hornby, Lancaster, Lancashire LA2 8JY

- 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 Langdale Capital against the decision of Lancaster City Council.
 - The application Ref: 18/01618/FUL, dated 17 December 2018, was refused by notice dated 20 October 2020.
 - The development proposed is the relevant demolition of detached barn and single and two storey rear projections, change of use of public house (A4) into two dwellings (C3), erection of a two storey rear extension, erection of a detached garage block and the erection of three dwellings (C3) with associated access.
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Appeal B Ref: APP/A2335/Y/21/3270280

Royal Oak Hotel, 73 Main Street, Hornby, Lancaster, Lancashire LA2 8JY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Langdale Capital against the decision of Lancaster City Council.
 - The application Ref: 18/01619/LB, dated 17 December 2018, was refused by notice dated 20 October 2020.
 - The works proposed are the demolition of single and two storey rear projections, erection of a two storey rear extension, replacement windows, installation of new doors, repairs to roof, flashing and re-pointing, removal of staircases and partition walls, insertion of a window to replace external door, blocking up of internal opening, creation of a new opening and installation of new partition walls and staircase
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Decision

1. Appeal A – The appeal is dismissed.
2. Appeal B – The appeal is dismissed.

Preliminary Matters

3. The descriptions set out in the headings above differ from those stated on the original application forms. At the hearing the appellant agreed these amended descriptions as an accurate reflection of what is proposed, and I have therefore considered the appeals on this basis.
4. Prior to the determination of the applications which led to these appeals, the appellant submitted four amended drawings¹. These drawings essentially remove the integral garages to Plots 1 and 2 along with some alterations to the driveways serving these plots. The Council advised that it had not based its decisions on these plans as they were received late in the determination period leaving no time to consult with the local Highway Authority.

¹ Proposed Floorplans & Elevations Plot 1 Drawing No. 103(P)111 Rev L, Proposed Floorplans & Elevations Plot 2 Drawing No. 103(P)110 Rev C, Proposed Site Plan Drawing No. 103(P)102 Rev L, and Proposed Streetscene Elevation Drawing No. 103(P)121 Rev C

5. At the hearing the Council confirmed that these amended drawings had been published on its website and therefore they have been available for public scrutiny. The parties agreed that if I were to consider these amended drawings as part of the appeal no one would be prejudiced in me doing so. Therefore, I proceeded with the hearing on the basis that I would consider these amended drawings as part of the appeal.
6. However, in accepting these drawings, I note the suggestion within the Council's delegated report that this may have implications for parking provision. Therefore, while this was not included as a reason for refusal, I advised the parties that it would be necessary to explore this matter as an additional main issue. Consequently, in the interest of fairness, the parties were invited to provide written comments on this issue, and therefore no party would be prejudiced by me taking this matter into consideration. In reaching my decision, I have considered the responses received.

Main Issues

7. From a review of all the evidence, I consider the main issues in this case to be:
 - Whether the development would be in a suitable location with regard to flood risk;
 - Whether a contribution should be made towards the delivery of affordable housing;
 - Whether the proposal would provide suitable parking provision;
 - Whether the proposal would preserve the Grade II listed building, its setting and any features of special interest that it possesses;
 - Whether the proposal would preserve or enhance the character or appearance of the Hornby Conservation Area; and,
 - Whether the proposal would constitute enabling development with regard to the restoration and conservation of the Grade II listed building and, if so, whether the conservation benefits would be sufficient to outweigh the disbenefits of any identified conflicts with planning policy.

Reasons

Flood risk

8. The appeal relates to the Royal Oak Hotel, a Grade II listed public house in the village of Hornby and on the edge of the Lune Valley. The site extends to approximately 0.19 hectares in size and comprises the two-storey public house and outbuildings, garden to the rear and its adjoining car park to the immediate north. The proposal would see the public house converted into two dwellings, with a further three dwellings developed within the site, two in the car park and a single bungalow in the existing rear garden area served by a new internal access road.
9. The appellant has provided updated flood modelling data² for the area based on recent revisions to the flood maps published by the Environment Agency. This flood map was published after the determination of the original planning application and shows that the majority of the appeal site is now located in Flood

² Impact Statement, Revisions to EA Flood Zone mapping on proposed residential development at The Royal Oak, Main Street, Hornby, Lancaster LA2 8JY, by Rutter Johnson, dated 20 January 2022

Zone 1, with a low probability of flooding. However, it also identifies parts of the site, including the existing public house, to be located within Flood Zone 2, where the Planning Practice Guidance (PPG) advises there is a medium probability of flooding³.

10. The National Planning Policy Framework (the Framework) sets strict tests to protect people and property from flooding. In this regard, the Framework requires the application of a sequential, risk-based approach to the location of new development. Locally this approach is set out in Policy DM33 of A Local Plan for Lancaster District 2011-2031, Part Two: Review of the Development Management DPD (the Local Plan), adopted July 2020, which states, among other things, that new development will need to satisfy the requirements of the sequential test as set out in national policy.
11. Paragraph 162 of the Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The PPG confirms that the aim is to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible⁴.
12. The Council's '*Planning Advisory Note 6: Application of the flood risk sequential test and exception test*', dated October 2020, (PAN 6) advises that where a site is located in multiple Flood Zones the application of the sequential test will depend on the nature and layout of the development proposed. In such cases, PAN 6 states that where hard development is proposed to be located within Flood Zones 2 or 3, then the normal approach is that the whole site would be subject to the sequential test.
13. Part of the proposed internal road that would provide access to Plot 2, Plot 5 and the parking for Plots 3 and 4 is located within Flood Zone 2, along with some of the footprint of the dwelling proposed in Plot 5. I note the appellant's assertion that the accuracy of the Flood Zone modelling data can fluctuate in the range of +/- 150mm, but this does not suggest a wholesale departure from the Flood Zone data provided by the Environment Agency. Accordingly, these areas are at a medium risk of flooding and, in accordance with PAN 6, it is appropriate for the entire site to be subject to the sequential test, except for the proposed change of use of the public house.
14. In applying the sequential test, PAN 6 advises that any departure from a district-wide search area for alternative lower risk sites must be clearly and rigorously justified by reference to one or more of three specific criteria, including '*the functional requirements of the proposed development as a whole or in part*'. The appellant submits that the proposed three new build dwellings are required as enabling development where part of the profits would facilitate the conversion and restoration of the Grade II listed public house. They consider this to provide a functional requirement for the development to be at this location and so alternative sites have not been considered.
15. The guidance does not offer a definition of, or give any further indication as to, what a 'functional requirement' might be. To my mind, a functional requirement

³ PPG - Flood risk and coastal change: Table 1: Flood Zones, Paragraph: 065 Reference ID: 7-065-20140306, Revision Date: 06 03 2014

⁴ PPG - Flood risk and coastal change: The sequential, risk-based approach to the location of development, Paragraph: 018 Reference ID: 7-018-20140306, Revision Date: 06 03 2014

is one where the proposed development, once complete, would serve an identified and enduring need that is unique to its specific location and so could not be met on an alternative site, or where it would be highly impractical to do so. For example, this could be development to support the essential need of a rural enterprise, the expansion of an existing manufacturing facility or an extension to an existing school or healthcare facility to meet the needs of the surrounding community.

16. The proposed new build dwellings would be open market housing occupied independently of the listed building. Even if I were to accept that the proposal would generate funds to invest in the restoration of the listed building, this would be a short-term financial relationship. The development would not therefore meet an identified and enduring need that is borne out of its location. Furthermore, the sequential test should not be constrained by landownership. Historic England Guidance⁵ advises that enabling does not necessarily need to be confined to the asset itself, located immediately adjacent or within the same curtilage, unless there are practical planning reasons.
17. Therefore, I am not persuaded that the appeal site provides the only location for a scheme of enabling development. A functional requirement for the development to be located within the confines of the appeal site has not been demonstrated, and therefore a departure from a district-wide search area has not been rigorously justified.
18. Consequently, there is insufficient evidence to demonstrate that there are no sequentially preferable sites available with a lower risk of flooding. Therefore, the sequential test has not been satisfied. For these reasons, the development would not be in a suitable location with regard to flood risk. The proposal would therefore be contrary to Local Plan Policy DM33 and the associated provisions of the Framework, the aims of which are set out above. In doing so, the proposal would also conflict with the Council's PAN 6 guidance.

Affordable housing

19. Policies DM3 and DM6 of the Local Plan require new residential development to make provision for affordable housing either on-site as part of a housing scheme or a financial contribution towards the delivery of such provision in the form of a commuted sum in lieu of on-site affordable housing. These policies allow for reduced provision where it can be demonstrated that these requirements would have a disproportionate and unwarranted negative impact on the viability of the proposed development.
20. At the hearing it was common ground that, when calculated using the methodology set out in the Council's '*Affordable Housing Practice Note*', dated July 2020, the development would generate a requirement for a financial contribution of £222,316. It was also agreed that a Vacant Building Credit discount should be applied, reducing the required financial contribution to approximately £110,000.
21. The appeal proposal is intended to generate funding for the conversion and restoration of the listed building, to this end a case has been made for enabling development. The appellant submits that if an affordable housing contribution were to be required, this would reduce the funds that could be put towards the restoration of the listed building and would render the scheme unviable.

⁵ Historic Environment Good Practice Advice in Planning Note 4: Enabling Development and Heritage Assets, published 30 June 2020

- Therefore, no contribution towards affordable housing is offered as part of the appeal proposal.
22. The PPG advises that viability evidence should assess whether a site is financially viable, looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return.
 23. Starting with the benchmark land value (BLV), the PPG states that this should be established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner⁶. The PPG is clear that where viability assessments are used to inform decision making, under no circumstances will the price paid for land, or the price expected to be paid for land through an option or promotion agreement, be a relevant justification for failing to accord with relevant policies in the Local Plan.
 24. The appeal is accompanied by several viability assessments⁷, the most recent of which is in the form of a letter from Kroll Advisory Ltd, dated 17 December 2021. In this most recent evidence, the viability assessment is based on a comparison of two schemes, one with the new build housing and one without, using the Residual Land Value methodology.
 25. At the hearing the appellant confirmed that their viability assessment had not strictly followed the guidance set out in the PPG and instead their EUV was based on the purchase price agreed with the landowner. They took the view that following an extensive marketing exercise, an actual open market sale of the property is the best evidence of market value. However, the agreed sale value of £302,500 was significantly lower than the asking price of £360,000, suggesting that the asking price was overly ambitious, and was an agreement to purchase based on the development of the site for an alternative use.
 26. Some market evidence has been provided in the form of comparable sales values for public houses in the locality⁸. However, this evidence is extremely limited and is of some age, including sales data from 2016. In any case, it was not clear how this data had influenced the appellant's valuation of the appeal property. Furthermore, beyond the agreed sale price, no independent valuation has been sought to inform the EUV. As such, the evidence supporting the appellant's suggested EUV is unconvincing and contrary to the approach set out in the PPG.
 27. For these reasons, I find the inputs to the appellant's viability assessment to be flawed and therefore they do not provide a sufficiently robust basis upon which to draw any firm conclusions on the viability of the appeal scheme. Given these concerns, I find that insufficient evidence has been submitted to demonstrate that the proposal is unable to sustain a contribution towards affordable housing. Therefore, in the absence of a contribution towards affordable housing, the proposal would be contrary to Policies DM3 and DM6 of the Local Plan, the requirements of which are set out above.

Parking

28. Policy DM62 of the Local Plan sets out that development proposals will be considered acceptable where they incorporate parking provision that accords with the levels and layout requirements set out in Appendix E of the Local Plan.

⁶ PPG Paragraph: 013 Reference ID: 10-013-20190509. Revision date: 09 05 2019

⁷ Financial Viability Appraisal by Duff & Phelps, dated 25 September 2018, Viability Report Revision 1 by Duff & Phelps, dated 25 March 2019, and Letter from Kroll Advisory Ltd, dated 17 December 2021.

⁸ Letter from Langdale Capital to Petra Williams at Lancaster City Council, dated 30 July 2019

Accordingly, the Council's parking standards require a maximum of three off-street parking spaces for dwellings with four or more bedrooms.

29. The proposal would provide five dwellings, each with four bedrooms. This would therefore attract a maximum parking requirement of three spaces per dwelling, a total of 15 spaces across the site. The proposal offers two spaces per dwelling, a total of 10 spaces across the site.
30. However, the Council's parking requirements for new development are expressed as a *maximum* standard and therefore these standards should not be applied arbitrarily. Instead, it is appropriate to take into account locational factors such as the accessibility of the proposed development to local services and employment opportunities, the availability of public transport, and local car ownership levels.
31. Hornby has a limited range of services and facilities which include a school, surgery, leisure facilities, small convenience store and post office, public house and a café, with no major employers. The village is served by a bus service, with a stop outside the appeal site, providing access to a wider range of services and employment opportunities in the nearby city of Lancaster and the smaller settlements of Kirkby Lonsdale, Carnforth and Ingleton. Nevertheless, this service appears limited and, therefore, it is likely that future occupiers of the proposed dwellings will opt for the use of the private motor car for convenience, and to access a wider range of services further afield, including access to mainline rail services.
32. The appellant has provided evidence indicating that car ownership levels in the area are low, at approximately 1.6 vehicles per household. However, this data is based on an average of all households of varying sizes rather than households that consist of dwellings with four bedrooms. In any case, this is based on Census data from 2011 which pre-dates the adoption of the Council's Local Plan and accompanying parking standards. This significantly limits the weight of this evidence.
33. Therefore, the site's limited access to services and limited availability of public transport are likely to be significant factors that will encourage car ownership. On the strength of the evidence before me, there is nothing to suggest that anything other than the Council's maximum parking requirement ought to apply in this case. Therefore, I consider the provision of three parking spaces per dwelling to be a reasonable requirement. In doing so, the proposed parking provision would be deficient.
34. In failing to meet the required parking standards, the proposal is likely to result in parked vehicles being displaced onto the adjacent public highway. The site is located on a busy main road, and in close proximity to an adjacent school, with associated 'keep clear' markings on the highway across part of the site's frontage. Therefore, its location is one where motorists are required to pay particular care and attention to accommodate young pedestrians and cyclists accessing the school. Accordingly, indiscriminate on-street parking at this location could result in vehicles blocking access to the proposed internal road or parking illegally over the keep clear markings. This would be detrimental to highway safety. Such parking may also conflict with buses accessing the stop outside the site.
35. Furthermore, the proposed parking layouts do not allow for vehicles to enter and leave the site in a forward gear. This will inevitably require vehicles to enter or exit the parking layouts for Plots 1 and 2 with a reversing manoeuvre. While the

appellant's Transport Technical Note⁹ demonstrates that this would be possible, I consider that such manoeuvres would significantly compromise the visibility between motorists making such manoeuvres, and pedestrians or cyclists using the pavement. To my mind, this would jeopardise the safety of young pedestrians and cyclists to an unacceptable degree. Whilst the location may not have a significant history of accidents, this is not a persuasive justification for increasing the risk of accidents occurring in the future.

36. The appellant asserts that, from the outset, the proposal has offered two parking spaces per dwelling and that this level of provision and its layout had not previously been raised as a concern by the Council. However, I note that the Highway Authority's initial consultation response highlighted a requirement for three parking spaces per dwelling. It is therefore perplexing as to why this was not acknowledged by the Council or indeed why the Highway Authority did not initially object to the proposal on this basis. Nevertheless, I have reached my own conclusions based on the evidence before me. Therefore, the fact that this matter was not previously raised does not diminish the harm I have found in this regard.
37. Taking these points together, the proposal would not provide suitable parking provision and therefore this would likely have an unacceptable impact on highway safety. It would therefore be contrary to Policy DM62 of the Local Plan and the associated provisions of the Framework, which together, amongst other things, seek to achieve suitable parking provision and maintain highway safety for all users.

Special interest and significance

38. Dating from 1781, the Royal Oak Hotel is a Grade II listed building and public house located within the Hornby Conservation Area. The stone-built, two-storey plus attic, property exhibits typical Georgian architectural features, addressing the street with a polite symmetrical arrangement of multi-paned sash windows with cyma-moulded stone surrounds and a traditional six-panel timber entrance door with similar styled stone surround.
39. To the right of the principal building is a lower part of the same build, and also of two storeys. The ground floor of this part of the building's façade has been subject to significant alteration, with the insertion of two modern mullioned windows with crude timber casements that have the appearance of miniature sliding sashes. These windows flank a wide modern entrance under a large stone lintel and set behind two solid timber doors. Above this are a pair of six-over-six sash windows with similar decorative stone surrounds. These are thought to be original and therefore are of significant interest.
40. To the rear is a variety of extensions and outbuildings of varying age and architectural quality which together form a courtyard enclosure and provide a historical narrative as to the building's development and former use. A mono pitch extension which ties into the roof slope of the main building dates from circa 1820-1840 and currently accommodates the toilets to the public house. This part of the building has been subject to some alteration, including the insertion of modern casement windows and some limited rebuild. Nevertheless, it largely retains its original historic form and composition. Furthermore, an 18-pane timber framed window to the attic of this extension appears to be of some age and adds to the interest of this part of the building.

⁹ Transport Technical Note by Curtins Revision V02, dated 22 February 2022

41. A later phase of the building extends out from the rear along the southern boundary of the site. These stone buildings provide an external cellar and stores dating from circa 1890-1900. In addition, a substantial freestanding, two storey, stone-built outbuilding with mono pitch roof stands along the northern boundary of the rear courtyard. This building is shown on an historical Ordnance Survey map of the area from 1890¹⁰ and is also clearly visible in photographic evidence from 1955. Therefore, as a structure within the curtilage that has a principal and associative relationship to the main building, this barn-like structure is also consequently listed.
42. This outbuilding is vacant and appears to be in a poor condition, and in need of some repair and general maintenance. I accept too that it has been subject to some alterations and partial rebuild over time. However, it is a substantial two storey building constructed from a mix of rubble and coursed stone of some age. It also still retains its basic form and appearance. As a result, despite its condition, its character reflects what was, no doubt, its original use as a functional building for ancillary storage or similar in connection with the public house. For these reasons, the building possesses heritage significance and contributes to the special interest of the listed building as a whole. However, the later 20th century additions including a flat roof kitchen, external staircase and timber framed storage buildings are of little or no significance, despite forming part of the listed building.
43. Internally, the building has been subject to significant alteration which has harmfully eroded the historic plan form of the building. On the ground floor very little of the historic plan form remains legible. Some of the building's historic layout is still evident at first floor including the layout of the larger principal rooms. Despite some loss of plan form, there are a number of surviving features of interest including fireplaces, some wall nibs which reference the historic layout and lathe and plaster ceilings.
44. Given the above, the special interest and significance of the listed building, in so far as it relates to these appeals, is principally derived from its architectural and historic interest as a prominent late-18th century public house of well executed vernacular design, along with a range of outbuildings which provide a narrative to the building's development.
45. The spacious surroundings and setting of the listed building also make a positive contribution to its special interest and significance as a heritage asset. In particular, the garden area to the rear has a strong association with the rear courtyard buildings and would have historically provided provisions as a kitchen garden to the public house. The built form and aesthetic qualities of the car park is perhaps unremarkable and somewhat utilitarian in its appearance. Nevertheless, its open character makes a positive contribution to the spacious setting of the listed building, affording significant views of the building on the approach from the north, and thereby allowing an appreciation of the building within its setting.

The appeal scheme

46. The appeal seeks consent for a change of use and works to facilitate the conversion of the listed building from a public house to provide two dwellings, each with four bedrooms. A four bedroomed bungalow is proposed within the existing rear garden area and two detached four bedroomed dwellings are

¹⁰ The Royal Oak, Hornby; Heritage Statement & Impact Assessment by Townscape, dated December 2018

proposed within the existing car park. An internal access road is also proposed alongside the listed building to provide access to a new garage block and the bungalow to the rear.

47. To facilitate this, the outbuildings to the rear would be demolished along with the external staircase and flat roofed kitchen extension. The mono pitch extension to the rear of the building would also be demolished and rebuilt on a slightly different footprint to accommodate the internal layout of the new residential units within the listed building.
48. A detailed schedule of works indicates that the listed building would be stripped out internally with the removal of all non-original fixtures, fittings and floor coverings. This would include the removal of non-structural internal walls, suspended ceilings, electrics, and plumbing. Windows are proposed to be replaced with modern double-glazed units including three sets of bi-folding doors to the rear elevation. The proposal also includes repairs to the roof and chimney stacks along with the repointing of the building with lime mortar to replace existing cement pointing. A damp-proof membrane is listed in the proposed schedule of works but no further details or specifications are provided.

The effect of the proposal on the listed building and its setting

49. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require me to have special regard to the desirability of preserving the building, or its setting or any features of special architectural or historic interest it possesses. I have therefore considered the appeal scheme in light of these weighty statutory duties.
50. There would undoubtedly be a degree of harm resulting from the loss of the public house and its conversion to residential use, thereby diminishing its cultural and social status within the village. Accordingly, at the hearing the main parties were in agreement that the proposal, in its entirety, would result in less than substantial harm to the significance of the listed building. From all I have seen and read, I would agree with that assessment.
51. In particular, the cumulative impact of the proposed demolition would result in the irreversible loss of a substantial amount of historic fabric. This would include the loss of key features of architectural and historic interest, including the loss of the outbuildings and the courtyard arrangement to the rear of the building and the loss of historic windows.
52. The proposed replacement of the rear mono pitch extension, including a full height frameless glazed-link, and the insertion of large modern bi-folding doors to the rear of the building would amount to contrived additions and alterations that would only serve to confuse and reduce the ability to appreciate and understand the building's historic development. Indeed, this existing rear extension is integral to the traditional form and character of the building and so its removal would significantly undermine the architectural integrity of the listed building. Undertaking a photographic record of the buildings prior to demolition would not be suitable mitigation for these losses. However, I raise no objection to the removal of the flat roofed kitchen extension and external staircase, along with the modern timber framed structures to the rear, as these features currently detract from the building.
53. The supporting window assessment is limited in both scope and detail. It does not provide a detailed assessment of the condition of the existing windows or any substantive reasoning as to why they are beyond repair. As such, the

replacement of historic windows with modern double-glazed units would result in a harmful loss of historic fabric and architectural features of interest. Accordingly, I am not persuaded that a robust justification for the replacement of the windows has been provided. While the appellant has suggested that window and door specifications, and the extent of their replacement or repair, could be controlled by condition, I have no such condition before me and, in any case, it would be unacceptable to leave such matters unresolved.

54. Internally, the proposed schedule of works indicates a considerable loss of historic fabric, including the loss of an historic fireplace on the ground floor. Furthermore, in respect of a number of the internal works itemised in the outline scope of works and the conversion cost estimate, the proposal is ambiguous in a number of critical aspects, including the lack of any illustrative details or specification for the use of proposed damp-proof membranes and screeds. There is also reference to the infilling of a cellar area, but no further details or illustrative materials have been provided to explain what this work would entail. The extent of these internal works and their effect on the significance of the listed building is therefore unclear.
55. This lack of detail does not allow for a meaningful assessment of the potential effects of these measures to the fabric, and thus the significance and special interest of, the listed building. Due to the potential extent, and the degree of ambiguity over what is proposed, it would be unacceptable to leave these matters to be controlled by conditions. Consequently, in these regards I conclude that it has not been demonstrated that these elements of the proposal would preserve the listed building and its special interest.
56. I accept that the building lines of the proposed dwellings for Plots 1 and 2 would be set back from the street. Nevertheless, the proposed dwellings would reduce the space around the building and interrupt views of the listed building and its wider setting. Despite some existing forms of modern development in the surrounding area, the proposal would harmfully detract from the significance of the listed building as a visually intrusive form of development within its setting.
57. In addition, the proposed bungalow within the existing rear garden area would also harmfully intrude into the setting of the listed building and, in doing so, it would diminish the historical association between the listed building and its curtilage. Consequently, some of the significance of the building, which is in part derived from its setting, would be harmed by the proposal.
58. Bringing all these points together, I conclude that the proposal would fail to preserve the Grade II listed building, its setting, and the features of special interest that it possesses. The proposal would not, therefore, meet the weighty statutory requirements set out above.
59. With reference to paragraphs 201 and 202 of the Framework, it is for the decision maker, having identified harm to heritage assets to consider the magnitude of that harm. In this case, under the terms of the Framework, I have found the harm to the listed building to be less than substantial. However, the Framework makes it clear that heritage assets are an irreplaceable resource, and that great weight should be given to their conservation. In such circumstances, Policy DM37 of the Local Plan and paragraph 202 of the Framework requires the harm to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. I shall return to this later in my consideration of the appeal.

Conservation Area

60. The appeal site lies within the Hornby Conservation Area, which is focused on the historic core of the village and its castle. Hornby is a medieval nucleated settlement located at a strategic crossing point on the River Wenning, and on the historic trading route between Lancaster and Kirkby Lonsdale. Therefore, section 72(1) of the Act requires that special attention be paid to the desirability of preserving or enhancing the character and appearance of the conservation area.
61. The conservation area is characterised by a combination of its surviving medieval layout, large number of historic stone-built traditional buildings, and its verdant rural setting. It encompasses almost all of the village's pre-20th century historic buildings which are built in a traditional vernacular style reflecting their predominant Georgian and Victorian origins. Indeed, many of these properties have largely retained their historic form and character and therefore make a positive contribution to their surroundings. Accordingly, I find that the significance of the conservation area, in so far as it relates to these appeals, to be primarily associated with the architectural integrity and historic legibility of its buildings. As a late-18th century building displaying attributes of traditional Georgian architectural character, the appeal property makes a strong positive contribution to the character and appearance of the conservation area.
62. Given my findings above, it follows that if the special interest of a listed building within a conservation area, prominently located such as in this case, is materially diminished, as a consequence the character and appearance of that conservation area as a whole is also similarly incrementally harmed. Therefore, as the proposal would undermine the architectural integrity of the listed building, I also find it to be harmful to the character and appearance of the Hornby Conservation Area, by diminishing the historic and architectural qualities of a building, and its surroundings, which contribute positively to that area.
63. In addition, the proposed housing in the adjacent car park would also disrupt a significant key view out of the conservation area. This would harmfully reduce views of the conservation area's verdant rural setting. Moreover, while the proposed materials for the new builds would be in keeping with those used in surrounding buildings, the design of the dwellings offer a distinctly suburban character with limited architectural articulation and therefore at odds with the more refined historic character of the conservation area.
64. Overall, the proposal would undermine the townscape quality and historic character of the conservation area. In doing so, the proposal would fail to preserve or enhance the character or appearance of the Hornby Conservation Area, contrary to the requirements of the Act.
65. Given the extent of the proposal and its consequent effects, the harm to the character and appearance of the Hornby Conservation Area would be less than substantial under the terms of the Framework. Therefore, in accordance with Policy DM38 of the Local Plan and paragraph 202 of the Framework, this harm is to be balanced against the public benefits of the proposal.

Public benefits

66. The replacement of the poor quality 20th century additions and timber framed structures with unsympathetic alterations including the introduction of modern bi-folding doors would override any public benefit gained from their removal. There would be some benefit from the removal of inappropriate cement-based mortar and its replacement with lime mortar. I appreciate that the Council

considers that this intervention may cause harm to the building, but if carefully raked out by a suitably skilled professional this would be beneficial to the conservation of the building's historic fabric. There would also be some benefit from the proposed repairs to the roof which would also remove three large inappropriate rooflights. However, I cannot agree that the internal works would provide a heritage benefit as there is too much ambiguity over the extent of these works and the amount of historic fabric that could be lost or irreversibly damaged by their implementation.

67. I accept that the proposal would provide much needed housing. This is a substantial benefit given the Council's inability to demonstrate a 5-year housing land supply. This would therefore accrue both economic and social benefits from the initial development of the site and its subsequent occupation. The proposal would also renovate the listed building and provide a viable use that could secure its long-term future. However, on the evidence before me, it has not been demonstrated that the proposal represents the only viable use for the listed building. As such, it has not been demonstrated that the proposal would represent the optimum viable use of the building in terms of it being the one likely to cause the least harm to the significance of the heritage asset.
68. I accept that if the appeal is to be dismissed, the future of the listed building would continue to be uncertain and, if it were to remain vacant, its condition could deteriorate further. However, there is little benefit in securing a new use for the building, if, as I have found in this case, the totality of the proposed works would compromise its conservation to an unacceptable degree.
69. Consequently, the combined weight of the public benefits would not tip the balance in favour of the proposal when set against the great weight and importance that I place on the identified harm to the special interest and significance of both the listed building and the conservation area. For this reason, the proposal would be contrary to Local Plan Policies DM29, DM37, DM38 and DM39 and the associated provisions of the Framework which together, among other things, requires proposals to achieve good design that conserves heritage assets, and their settings, in a manner appropriate to their significance.

Enabling development

70. The appellant submits that the three proposed new build dwellings are necessary as a form of enabling development to fund the conversion and restoration of the Grade II listed building. Paragraph 208 of the Framework requires an assessment to be made as to whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies, but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.
71. Historic England's *Historic Environment Good Practice Advice in Planning Note 4: Enabling Development and Heritage Assets*, published June 2020, (GPA4) identifies core principles, and sets out detailed guidance to assist in assessing whether a scheme for enabling development might be appropriate. GPA4 is, therefore, a relevant material consideration to which I attach substantial weight. At the hearing, the discussion on enabling development was framed around the guidance set out in GPA4 and, therefore, it is against this which I have considered the scheme.
72. At section 4 of the guidance, GPA4 sets out a seven step process to consider whether the requirements of paragraph 208 of the Framework are met. Crucial steps in this process include a survey of the condition of the heritage asset to

inform a conservation management plan; an assessment of alternative solutions by which the asset's future might be secured; an assessment of the cost of repairs; and an assessment of the market value of the asset in its current and repaired condition to allow for the conservation deficit to be calculated.

73. The conservation deficit is simply the amount by which the cost of repair (and conversion to optimum viable use if appropriate) of a heritage asset exceeds its market value on completion of repair and conversion, allowing for all appropriate development costs. The guidance is also clear that because the harm done by enabling development is likely to be permanent and irreversible, a scheme for enabling development is likely to be a last resort after all other alternatives have been robustly explored and discounted.
74. The appeal is supported by a survey which assesses the condition of the listed building. The survey report¹¹ identifies that the building's roofs are in a poor condition with some pronounced deflection and significant moss growth that is facilitating some moisture penetration. Timber doors and window frames are also identified as being in a poor condition and requiring some maintenance and repair. However, no structural deficiencies were identified. Indeed, the survey report confirms¹² that its scope was limited and should not be construed to represent a structural appraisal or a detailed building survey. Therefore, this limits the weight I attach to this evidence.
75. From my own onsite observations, the building appeared to be in a reasonable condition considering the length of time it has stood vacant. I accept that substantial repairs to the roof are likely to be required along with some maintenance and repairs to doors and window frames. I also observed that a small area of ceiling has collapsed due to a burst pipe, but this appeared to be extremely localised within the building. Overall, whilst my observations do not amount to a detailed technical appraisal, the building does not appear to be at risk of disrepair and there is little evidence to suggest that is the case. Neither has it been claimed that the building is on Historic England's *Heritage at Risk Register*.
76. The condition survey has not been followed by a conservation management plan and an assessment of alternative solutions has not been carried out. A Conversion Cost Estimate¹³ has been provided, but this includes additional works such as the cost of the proposed internal road and landscaping which do not directly relate to the conservation needs of the heritage asset. In addition, I have already found ambiguities over the extent of the proposed internal works, which are also costed in this document, and which I have found to be harmful to the heritage asset. Furthermore, the total cost estimate does not easily translate into the appellant's financial calculations and viability evidence.
77. At the hearing, the appellant was unable to identify how they had calculated the conservation deficit for the scheme, nor were they able to identify what the conservation deficit might be. Accordingly, from the evidence, I am unable to conclude that a scheme for enabling development would be the only means of securing the future of the heritage asset based on the costs of repair being significantly greater than its market value upon repair, or that a conservation deficit was likely to exist.

¹¹ Schedule of Condition Upon:- The Royal Oak, Main Street, Hornby, Lancaster, by Garside Waddingham Chartered Surveyors, dated 13 December 2018

¹² At paragraph 1.3 of the Garside Waddingham Report

¹³ Conversion Cost Estimate, by Hamilton Oakmont, dated September 2020

78. Consequently, it has not been demonstrated that there is a pressing need for the repair and restoration of the listed building. However, even if I were to accept the appellant's arguments in this regard, I have not been provided with a mechanism that would secure a scheme of conservation works for the listed building. This on its own would be a reason for the appeals to fail. Moreover, I have already found the proposals for the conversion and restoration of the listed building to be harmful and without sufficient public benefit to outweigh this harm.
79. In my judgement, the financial interest of the owners of the listed building is likely to be sufficient to safeguard the building from total loss or at the very least to ensure it is maintained in accordance with statutory minimum requirements. I am therefore not satisfied that it has been sufficiently demonstrated that a scheme for enabling development would be a measure of last resort and the only means by which the future of the heritage asset could be safeguarded.
80. Accordingly, under paragraph 208 of the Framework and when assessed against the guidance in GPA4, it has not been shown that the proposal would constitute a scheme of enabling development with regard to the restoration and conservation of the Grade II listed building. Nor has it been demonstrated that the proposal is necessary to secure the future conservation of the heritage asset or that the proposal would outweigh the disbenefits of departing from planning policy in relation to the conflicts I have found with the development plan.

Other Matters

81. The appeal site falls within the Forest of Bowland Area of Outstanding Natural Beauty, but the parties are agreed that there would be no harm to this protected landscape. From my own assessment I see no reason to depart from this view. However, this is a neutral consideration that weighs neither for nor against the proposal.
82. At the hearing I was advised that an offer had recently been made to purchase the appeal property with the intention of reopening it as a public house. This was supported by the submission of a statement and email correspondence¹⁴ between an interested party and the owners of the appeal property, Daniel Thwaites PLC. This confirms that an offer £300,000 was rejected on the basis that the owner had agreed to sell the property to the appellant for a slightly higher agreed sum of £302,500. This therefore appears to contradict the appellant's evidence¹⁵ which states that, following an extensive marketing campaign since May 2016, no substantiated offers had been received other than the offer from the appellant.
83. The parties were subsequently invited to provide written comments on any implications this may have for the appeal. The Council consider that this represents a reasonable offer that would alter their position as to whether the loss of the public house was justified under the requirements of Local Plan Policy DM56¹⁶. The appellant considers that this new evidence lacks sufficient detail and that the offer was not adequately substantiated.
84. The property was placed on the market for sale on 19 May 2016 with an asking price of £395,000. On 20 June 2016 this was reduced to £360,000. In November

¹⁴ Statement from Mrs Creshia Jones with attached email correspondence between Mrs Jones and Daniel Thwaites PLC, dated 20 January 2022 and received by the Planning Inspectorate at 13:23, 26 January 2022

¹⁵ Letter from Daniel Thwaites PLC, dated 21 January 2022

¹⁶ This policy seeks to ensure that the loss of any local services or community facilities is justified by, among other things, evidence of a robust and transparent marketing exercise.

2018 the owner accepted an offer of £302,500 from the appellant, subject to securing planning permission for an alternative use. Given that the appellant's offer was accepted at almost £60,000 lower than the asking price, this would appear to suggest that the asking price was far in excess of the property's market value, and therefore this could have deterred prospective purchasers. However, as I am dismissing the appeal on other grounds, it has not been necessary for me to explore this matter further.

85. There is no dispute between the parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites. However, in light of my findings in relation to flood risk and heritage matters, paragraph 11.d) i of the Framework applies. Accordingly, the application of policies in the Framework relating to flood risk and heritage matters provide clear reasons for refusing the development proposed.
86. I acknowledge the letters of support submitted in favour of the proposal and, in doing so, I appreciate the local community's desire for the building to be brought back into a viable use. However, this matter does not detract from the harms I have found and does not override the identified conflicts with Local Plan policies.

Conclusion

87. I have found that the proposal would not be in a suitable location with regard to flood risk and it would fail to make the required financial contribution to the delivery of affordable housing. It would not provide suitable parking provision, resulting in highway safety concerns, and it would fail to preserve the Grade II listed building, its setting, and the features of special interest that it possesses. Nor would it preserve or enhance the character or appearance of the Hornby Conservation Area. Furthermore, a case for enabling development has not been demonstrated.
88. In these regards, I have found the proposal to be contrary to the above cited policies of the development plan and the associated provisions of the Framework. Moreover, in terms of Appeal A, no material considerations of sufficient weight have been advanced to justify a decision other than in accordance the development plan.
89. Therefore, for the reasons given, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

J M Tweddle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Jonathan Wadcock	Urban Agile
Mr Sam Miller	Langdale Capital

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Petra Williams	Planning Officer
Miss Bethan Frost	Conservation Officer
Ms Florence Henriksen	Planning Technician

INTERESTED PARTIES:

Mrs Creshia Jones	Local resident
Mr Mike Fisher	Local resident

DOCUMENTS SUBMITTED AT THE HEARING:

Letter from Daniel Thwaites PLC, dated 21 January 2022

Planning Advisory Note 6: Application of the Flood Risk Sequential Test and Exception Test, Lancaster City Council, dated October 2020

A Local Plan for Lancaster District 2011-2031, Affordable Housing Practice Note, Lancaster City Council, dated July 2020

Review of the Development Management DPD, Appendix E: Car Parking Standards, Lancaster City Council, dated July 2020

Statement from Mrs Creisha Jones with attached email correspondence between Mrs Jones and Daniel Thwaites PLC, received by the Planning Inspectorate at 13:23, 26 January 2022

OTHER DOCUMENTS:

Pre-hearing Note from the Inspector, dated 17 January 2022

Post-hearing Note and Instructions from the Inspector, dated 27 January 2022