
Appeal Decision

Site visit made on 4 May 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2022

Appeal Ref: APP/A2335/W/22/3291650
122 Aldcliffe Road, Lancaster LA1 5BE

- 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 & Mrs Wellesley-Smith against the decision of Lancaster City Council.
 - The application Ref 21/00544/FUL, dated 28 April 2021, was refused by notice dated 3 December 2021.
 - The development proposed is 1no outbuilding within curtilage of existing dwelling. Outbuilding to be used as overnight guest accommodation for family, friends, and paying guests. For the redline boundary only - change of use from residential class C3(a) to tourism accommodation in view of using outbuilding for paying guests.
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Decision

1. The appeal is allowed. Planning permission is granted for change of use of residential land for siting of hut for use as holiday accommodation including associated amenity space and hard landscaping at 122 Aldcliffe Road, Lancaster LA1 5BE in accordance with the terms of the application Ref 21/00544/FUL dated 28 April 2021 subject to the conditions in the attached schedule.

Procedural Matters

2. Notwithstanding the description of development set out in the banner heading, which is taken from the application form, it is clear from the plans and accompanying details that the development is as described in the formal decision above.
3. This was the description of development used by the Council and that subsequently adopted by the appellant on their appeal form. It is also clear from the evidence that this description of development more closely matches the proposal before me. I have therefore considered the proposals on the basis of this revised description.

Main Issues

4. The main issues are whether the proposal is suitable with regard to its location and its effect on the living conditions of the occupiers of 122 Aldcliffe Road (No. 122) with particular regard to privacy.

Reasons

Location

5. The proposal relates to a small, enclosed section at the bottom end of the rear garden of a large detached residential dwelling which sits a short distance to the south-west of Lancaster City Centre. The plans indicate that a modest shepherds hut would be placed within one corner of the garden which is sectioned off by established hedging.
6. Given the limited size of the shepherds hut and the extensive hedge and tree planting to the boundaries of the site, a shepherds hut when placed within this part of the garden would have limited visibility from both the garden of No.122 as well as other neighbouring land.
7. While perhaps a rather heavy-handed policy when considering such a modest scheme, Policy DM52 of The Local Plan for Lancaster District Part Two: Review of the Development Management DPD (2020) (LPLD) requires that priority be given to the re-use of previously developed sites for proposals such as this.
8. Where greenfield sites such as this are identified, the Policy requires it be demonstrated that that no alternative, suitable brownfield sites exist in the locality. For understandable reasons, owing to the nature of the proposal and its relationship with the dwelling, it has not been demonstrated that this is the case. The proposal therefore conflicts with part I. of Policy DM52 of the LPLD.
9. However, the proposal would have little or no landscape impact. It would also be in a highly sustainable location, a short walk from Lancaster City Centre and the railway station located on the west coast main railway line meaning that there would not be any reliance on a motor vehicle for guests to access the site. The proposal would also involve the creation of a small tourism business at the site. Small business generation is encouraged through Policy DM15 of the LPLD.
10. I accept that the economic benefits of the business would be modest due to the limited scale of the proposal. However, they would be beneficial nonetheless and the proposal would likely see money spent in local businesses. I afford these matters significant weight.
11. I therefore conclude that while the proposal would partially fail to accord with Policy DM52 there would be no significant harm arising as a result of the sustainably located proposal which would have economic benefits. I have afforded these matters significant weight such that they outweigh the conflict with Policy DM52 of the LPLD. This particular proposal would therefore be appropriately located.

Living conditions

12. Guests at the hut would share the access drive of No.122 and would pass to the side of the dwelling and follow a path to the rear of the garden. Once in that rear section of garden, the hedging would afford privacy to both parties.
13. The habitable room windows are located substantially within the rear elevation of the house overlooking the spacious lawn that would remain. Therefore, activity within the driveway and pathway, which would in any event be limited due to the small scale of the proposal, would not be likely to harm the living conditions of the occupiers at No.122 to any significant degree.

14. The proposal would not therefore conflict with Policy DM29 of the LPLD which amongst other things requires development to ensure there is no significant detrimental impact to amenity in relation to privacy.

Other Matters

15. I have identified no conflict with policies DM34, DM35, DM38 nor DM45 of the LPLD which relate to surface water and water supply/waste, Conservation Areas and protection of trees, hedgerows and woodland respectively.

Conditions

16. Conditions have been suggested by the Council and I have broadly imposed these, subject to some minor re-drafting. Planning permission is granted subject to the standard three-year time limit. It is also necessary that the hard landscaping be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
17. An electric charging point is necessary to support those wishing to engage with more sustainable modes of travel. Conditions 6 and 7 are necessary to fully define the proposal as holiday accommodation and in the interests of the character and appearance of the area. Condition 5 is necessary in the interests of the drainage of the site and to limit the impact on nearby planting.
18. Condition 3 is necessary. Without it the proposal would have an adverse effect on the integrity of Morecambe Bay Special Area of Conservation, Morecambe Bay and Duddon Estuary Special Protection Area and Morecambe Bay Ramsar site and damage the interest features for which the Lune Estuary Site of Special Scientific Interest (SSSI) have been notified.
19. I have not found a condition that requires the hut to be used in association with No.122 necessary. Given it shares parking space and an access through the garden it is likely that this would be the case in any event.

Conclusion and Planning Balance

20. I have identified conflict with the development plan. However, considerations indicate that the appeal should be determined otherwise than in accordance with it. I therefore conclude that the appeal should be allowed.

T J Burnham

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The hard landscaping hereby permitted shall be carried out in accordance with the following approved plans: 6002c/b/01 rev.B.
- 3) Prior to the first use of the land hereby permitted, details of a visitor pack shall have been submitted to and approved in writing by the Local Planning Authority. The pack shall include details of the nearby sites designated for their nature conservation interest (and the wider Morecambe Bay coastline), their sensitivities to recreational pressure and shall promote the use of alternative areas for recreation, in particular dog walking areas. The visitor pack shall be created and distributed to the shepherds hut prior to the first use of the land hereby permitted and thereafter remain available for as long as the shepherds hut is on the site and used for short term holiday letting purposes.
- 4) Prior to the first use of the land hereby permitted, an electric vehicle charging point rated at a minimum of 7.2kW shall be provided for use by guests and shall remain in place for as long as a shepherds hut is on the site and used for short term holiday letting purposes.
- 5) All hard surfaces on the site shall be constructed in a porous material, details of which shall first have been submitted to and approved in writing by the Local Planning Authority.
- 6) The use of the land hereby permitted shall be for short term holiday letting purposes only (not exceeding 8 weeks by any one person). The owner/operator shall maintain an up-to-date register of the names and addresses of the occupiers of the site and shall make the register available at all reasonable times to the Local Planning Authority upon request.
- 7) No more than one shepherds hut shall be stationed on the land at any time. The Shepherds hut detailed on plan 6002c/b/01 rev.B. shall not be replaced by any other shepherds hut differing from the approved details, unless and until details of the size and design of such replacement has first been approved in writing by the Local Planning Authority on an application submitted to it.