



Appeal Decision

Site visit made on 7 February 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2023

Appeal Ref: APP/A2335/W/22/3308282

41 Main Street, Cockerham LA2 0EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Harry Parker against the decision of Lancaster City Council.
 - The application Ref 22/00785/OUT, dated 24 June 2022, was refused by notice dated 9 September 2022.
 - The development proposed is outline application only for erection of 1 No. detached dwellinghouse on land adjacent to 41 Main Street Cockerham following demolition of existing double garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application is submitted in outline with all matters reserved for a subsequent reserved matters application. A possible layout for the dwelling under Drawing No. 3536-003 Revision A has been submitted and I have taken this into account in so far as establishing whether or not it would be possible, in principle, to erect a dwelling on the site.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area;
 - Whether the proposed development would provide acceptable living conditions for future occupiers in relation to outlook, daylight/sunlight, noise and odour; and
 - The effect of the proposed development on the living conditions of the occupiers of 41 Main Street in relation to privacy and daylight/sunlight.

Reasons

Character and appearance

4. The appeal site is located within a prominent position along Main Street opposite the village hall and is readily visible from the footpath and main road. The gradient of the land rises up from the road and the appeal site including the host property of 41 Main Street (No. 41) sits at a raised level making it even more prominent within the street scene. Whilst the properties nearby vary

in terms of scale, design, and materials, the pattern of development within the area is generally linear fronting Main Street laid out with groups of proportionally spaced detached/semi-detached and terraced housing.

5. The amenity space to the side of No. 41 is typical of the gaps between properties along this side of Main Street which gives a sense of openness and spaciousness to the street scene acting as a visual buffer between built development. Such spaces therefore make a positive contribution to the character and appearance of the area.
6. The proposed development within this area would take up a large proportion of this space and the resulting separation of the properties would be at odds with the prevailing pattern of development and would remove this key feature which contributes positively to the character and appearance of the area. Although matters relating to access, appearance, landscaping, layout and scale are reserved for a subsequent application, the space available would mean that a proposed dwelling would need to sit uncomfortably close to both the host property and site boundaries which would result in a cramped form of development at odds with the general form of the area. This is further exacerbated by the main entrance serving No. 41 being located on the side elevation which faces out onto the appeal site where there are a number of windows including a conservatory on this elevation.
7. I acknowledge that the proposed development would be of a similar height and footprint to other nearby properties and would be in line with that of No. 41 whilst not exceeding the size of the plot. I also acknowledge the appellant's assertion of other small plots in the village. However, such matters would not negate the perception of overdevelopment on this site and in any event, I am considering the scheme that is in front of me and I have identified the harm that would arise.
8. I conclude that the proposed development would unacceptably harm the character and appearance of the surrounding area and would be contrary to Policy DM29 of the Lancaster District Development Management Development Plan Document (DPD) which amongst other things, requires development to contribute positively to the identity and character of the area through good design, having regard to local distinctiveness, appropriate siting, layout, palate of materials, separation distances, orientation and scale. The proposed development would also be contrary to chapter 12 of the National Planning Policy Framework (the Framework) relating to achieving well-designed places.

Living conditions – Future Occupiers

9. A large agricultural building is located to the rear of the site and the limited area of land available to the side would mean that a proposed dwelling would need to sit within close proximity to the agricultural building. It is clear from the outline submission where the proposed siting and amenity areas would be intended and the close relationship to the barn would result in the barn appearing imposing and overbearing to future occupiers. The outlook from the property including amenity areas would be severely restricted and visually oppressive as a result. Given the proximity and height of the agricultural building, it is likely the building would significantly reduce the amount of light reaching the rear windows and private garden of the proposed dwelling. It would therefore result in poor living conditions for future occupiers.

10. I appreciate that the agricultural building is in a very dilapidated and unstable condition. However, there is no compelling case to suggest that the building could not be used in the future for agricultural activity which would give rise to unacceptable levels of noise and odour should it be re-utilised for livestock or farm machinery/equipment. Again, this would be detrimental to the living conditions of future occupiers and contrary to the aims of Policy DM29 of the DPD. I note that there has been a grant of planning permission for its demolition. However, this consent has since lapsed with the building still present, and I must determine the appeal based on the current context of the site.

Living conditions – Occupiers of No. 41

11. The supporting text set out under Policy DM29 of the DPD amongst other matters, seeks to ensure a minimum separation distance of 12 metres where a habitable room faces onto a side wall with no such window. The proposed development falls short of this requirement. However, this requirement is to ensure privacy with the supporting text explaining that new dwellings should be as private and free from overlooking and overshadowing as possible.
12. In terms of overlooking, and whilst there are a number of windows located on the side elevation of No.41 which face onto the appeal site, this property is single storey, and providing the proposed development is also single storey as indicated which can be secured through a subsequent application then matters of privacy are restricted to ground floor level only. The potential for overlooking is therefore limited.
13. The submitted plan demonstrates that a dwelling could come forward without windows within the elevation closest to No. 41 to ensure privacy and suitable boundary treatments could be secured to limit potential for overlooking.
14. I appreciate that due to the separation distance involved, it would be a breach against the guidelines set out within the DPD. However, the proposed development does not conflict with the overall principle of the guidelines in terms of ensuring privacy.
15. In terms of overshadowing, the proposed development would be located within close proximity to No. 41 and given the positioning of windows within the existing elevation facing the site, it is likely the proposed dwelling would reduce the amount of light reaching the windows of the existing dwelling despite it being located to the north.
16. My attention has been drawn to a dwelling currently under construction nearby at 51 Main Street (No. 51) which I visited during my site visit. Whilst I note the close relationship of No. 51 to its neighbour, there are material differences between the property under construction and the appeal site including, plot size, layout and land levels. I accept that there is a window located within the side elevation of the neighbouring property which faces the gable elevation of No. 51. However, this relates to a single window only which is small in size along with a side-by-side relationship and thus the effect on the living conditions of existing occupiers would not be as harmful. Consequently, that proposal would not be comparable to the appeal site where the entrance of the host property including a number of windows and the conservatory would directly face the proposed dwelling.

17. I also acknowledge that the occupiers of No. 41 do not object to the separation distances and whilst this may be the case, development should ensure a high standard of amenity for not just existing occupiers but also future occupiers in accordance with advice set out within the Framework.

Living conditions – Conclusions

18. The proposed development would not provide acceptable living conditions for future occupiers in relation to outlook, noise and odour and it has not been satisfactorily demonstrated that future occupiers would not be unduly harmed by reduced levels of daylight/sunlight. Additionally, and whilst the proposed development would not harm the living conditions of the occupiers of No. 41 in relation to privacy, it has not been satisfactorily demonstrated that existing occupiers would not be unduly harmed by reduced levels of daylight/sunlight. Consequently, the proposed development would be contrary to the requirements of Policy DM29 of the DPD which amongst other things, requires development to ensure there is no significant detrimental impact to amenity in relation to overshadowing, visual amenity, privacy, overlooking, massing and pollution. The proposed development would also be contrary to chapter 12 of the Framework relating to achieving well-designed places.

Other Matters

19. I note that changes have been made to the scheme following discussions with the Council in an effort to demonstrate how a dwelling would be accommodated onsite and I note the commitment of proposed planting of ornamental shrubs and small trees within the front garden area. I also note that the proposed development would deliver housing within a sustainable location adding to the housing stock within the village. However, such matters would not be sufficient to outweigh the harm identified having regard to character and appearance and living conditions.

Conclusion

20. For the above reasons, the proposed development would conflict with the development plan when considered as a whole. There are no material considerations, either individually or in combination, that outweighs the identified harm and associated plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR