



Appeal Decision

Site visit made on 17 November 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2024

Appeal Ref: APP/A2335/W/23/3320715

Washington Close, Lancaster, Lancashire LA1 5EX

Easting (x) 346593 Northing (y) 461285

- 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 James Glass (JMP Architects Ltd) against the decision of Lancaster City Council.
 - The application Ref 23/00062/FUL, dated 20 January 2023, was refused by notice dated 17 March 2023.
 - The development proposed is the erection of a single dwelling house, access, car parking and associated landscaping works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling house, access, car parking and associated landscaping works at Washington Close, Lancaster, Lancashire, LA1 5EX in accordance with the terms of the application, Ref 23/00062/FUL, dated 20 January 2023, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. This does not materially change the planning policy context in respect of the main issues, and I have determined the appeal accordingly.

Main Issues

3. The main issues are:
 - Whether the proposed development would provide suitable living conditions for future occupiers with particular regard to adequate provision of outdoor amenity space; and
 - The effect of the proposed development on the living conditions of the occupiers of 4 Washington Close with particular regard to outlook and privacy.

Reasons

Living Conditions – Future Occupiers

4. The appeal site is located on the junction of Washington Close and Westbourne Road. The majority of the external amenity space would be at the side of the proposed dwelling facing Washington Close. The appellant has indicated that

this area would provide approximately 90 square metres of amenity space. The Council have not challenged this figure and I have no reason to dispute it.

5. Whilst the majority of the garden would not be at the rear of the property, the retention of the existing high beech hedge indicated in the proposed plans would provide occupiers of the dwelling with a sizeable area providing both a pleasant outlook and private space to sit out in or for children's play. Together with smaller areas of amenity space to the front and rear of the proposed dwelling the private amenity space proposed would far exceed the space requirements set out in the supporting text to Policy DM29 of the '*Part Two: Review of the Development Management DPD*¹ (2020) (DMDPD).
6. For this reason, I conclude that the proposed development would provide sufficient living conditions future occupiers with regard to the provision of private external amenity space. The proposal would therefore not be in conflict with DMDPD Policy DM29 which seeks to ensure that development does not result in significant detrimental impact to amenity in relation to, amongst other things privacy and overlooking. I also find no conflict with section 12 of the Framework in this respect.

Living Conditions – 4 Washington Close

7. The rear elevation of the proposed dwelling would be approximately 6 metres from the side elevation of 4 Washington Close (No. 4). There would be no windows in the rear elevation of the proposed dwelling.
8. No. 4 is a split-level property with windows in its side elevation facing the appeal site. These appear to comprise two windows serving an integral garage and secondary windows serving living accommodation above. A high close boarded fence sits between the appeal site and this side elevation.
9. Although the relationship between the two properties would be closer than the 12 metres recommended in the supporting text to DMDPD Policy DM29 for instances where habitable rooms face blank elevation, in this instance the windows facing the appeal proposal are secondary windows where the main outlook for the rooms affected are frontward and rearward facing. This is a similar relationship to that which I observed replicated between other properties along the Close. Furthermore, the proposed ground level of the appeal proposal comparable to the higher ground level of No.4 would mean that the secondary windows in the living accommodation of that property would face the receding roof of the proposed dwelling rather than directly onto a blank elevation.
10. I therefore conclude that the proposal would not cause undue harm to the living conditions of the occupiers of 4 Washington Close with regard to outlook and privacy. Therefore, there would be no conflict with DMDPD Policy DM29 in respect of its requirements to ensure that development does not cause significantly detrimental impacts to amenity in relation to, amongst other things, visual amenity and overshadowing. There would also be no conflict with Section 12 of the Framework in this respect.

¹ 'A Local Plan for Lancaster District 2011 – 2013 Part Two: Review of the Development Management DPD Adoption Version' July 2020

Other Matters

11. The Council is concerned that the proposed dwelling is an overdevelopment of the site which is demonstrated by its exceedance of the National Described Space Standards (NDSS) for dwellings of this size. However, the dwelling is similar in scale to those surrounding it and as set out above provides adequate external amenity space for future occupants. Furthermore, the NDSS is intended as a minimum space standard for dwellings to ensure that occupiers are provided with an acceptable quality and quantity of accommodation rather than an indicator of development density.
12. The Council is concerned that the proposed parking layout on site would not allow two cars to access the site independently of one another. However, I note that the Highways Authority raised no objection to the proposal. I have not been provided with any adopted parking standards which indicate the number of parking spaces appropriate to the proposed dwelling. Furthermore, I did not observe any pressure for on-street parking in the vicinity of the appeal site which would lead me to conclude that the proposal was unacceptable in this respect.
13. The appeal site lies close to the Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay and Duddon Estuary Special Protection Area (SPA), Morecambe Bay Ramsar and Lune Estuary Site of Special Scientific Interest (SSSI). The sites provide important habitats for a range of species.
14. The appeal proposal would result in an increase of one dwelling, with a consequent small increase in the number of people living close to the protected site. The evidence is that this would likely increase recreational disturbance, either on its own or in combination with other projects, particularly through dog walking, to the detriment of the integrity of the protected areas. I therefore find that the proposal would likely lead to significant effects on the protected sites.
15. Natural England are satisfied that suitable mitigation for the potential increased disturbance of the protected area arising from the proposal could be achieved through the imposition of a suitably worded condition requiring the provision of homeowner packs. As the competent authority, it falls to me to undertake an appropriate assessment. In this case I find that the homeowner packs would ensure acceptable mitigation and hence ensure that the proposal would not cause harm to the integrity of the protected sites.
16. Subject to the imposition of a condition, the development therefore accords with the biodiversity requirements of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) and paragraph 186 of the Framework.

Conditions

17. I have carefully considered the Council's suggested conditions in the light of the Framework and Planning Practice Guidance. I have undertaken some minor editing in the interests of precision and clarity to make a number of the proposed conditions more relevant to the case before me.
18. Plans and time limit conditions are necessary and reasonable in the interests of certainty. I have also imposed conditions relating to surface water drainage and foul drainage, materials and hard and soft landscaping. These are both

necessary and reasonable to preserve the character and appearance of the area, to protect the living conditions of neighbouring occupiers and to ensure that adequate parking is provided.

19. I have also imposed a condition relating to the provision of a homeowner pack to provide appropriate mitigation for increased recreational disturbance to protected areas as set out above. This is necessary to comply with the Habitat Regulations.
20. The Council have suggested the removal of permitted development rights. Framework paragraph 54 is clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Guidance states that such conditions may not pass the tests of reasonableness or necessary and should only be done in exceptional circumstances. In this case I consider this not to be the case as the opportunities for additions to the proposed dwelling would be limited in any event

Conclusion

21. For the reasons given above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed subject to the conditions set out in the schedule attached to this decision.

KL Robbie

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan L3771/PL01 Rev A; Proposed Site Plan L3771/PL03 Rev G; Site Sections L3771/PL04 Rev C; Proposed Plans L3771/PL05 Rev G; Proposed Elevations L3771/PL06 Rev F; Proposed Sections L3771/PL07 Rev B; Street Elevations L3771/PL09 Rev C; Proposed Landscaping Plan L3771/PL11 Rev B.
- 3) No development (other than site clearance/preparation) shall commence until a surface water drainage scheme, including a maintenance regime, (based on the hierarchy of drainage options in the National Planning Practice Guidance and evidence of an assessment of site conditions), has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented and operational prior to the first occupation of the development and shall be maintained in accordance with the approved details at all times thereafter.
- 4) No development (other than site clearance/preparation) shall commence until details of the foul drainage system have been submitted to, and agreed in writing by, the local planning authority. The development shall not be occupied or brought into use until the approved details have been fully implemented. The foul drainage system shall be retained and maintained at all times thereafter.
- 5) No installation of any of the following materials shall occur until their associated details have been submitted to, and approved in writing by, the local planning authority:
 - a. Details of the cladding (sample including finish)
 - b. Details and specification of the solar panels
 - c. Details of the roof, including the ridge and verge (sample)
 - d. Details of windows and doors (specification including, material, openings, colour and finish, frame thickness)
 - e. Details of the hard landscaping.

The development shall be implemented in accordance with the approved details and retained as approved at all times.
- 6) No development above ground shall commence until details of the hard and soft landscaping of the site (including boundary treatments and wherever possible the retention of existing trees and hedges) have been submitted to, and approved in writing by, the local planning authority. In particular the species, size and number of trees that are to be planted within the site. The approved scheme shall be implemented in the first planting season following completion of the development, or following first occupation/use, whichever is the earlier, and maintained at all times thereafter in accordance with the approved maintenance regime.
- 7) The dwelling hereby permitted shall not be occupied until the details of a Homeowner Pack have been submitted to, and approved in writing by, the local planning authority. These 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. The Homeowner Pack shall be provided to the first occupier prior to occupation and any subsequent occupiers prior to occupation thereafter.

****End of Schedule****