



Appeal Decision

Site visit made on 9 January 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2024

Appeal Ref: APP/A2335/W/23/3326429

20 Oakville Road, Heysham, Lancashire, LA3 2TB

- 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 Lewis O'Connor against the decision of Lancaster City Council.
 - The application Ref 23/00539/FUL, dated 8 May 2023, was refused by notice dated 3 July 2023.
 - The development proposed is the erection of single storey detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

3. The main issues of the appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the existing occupiers of Fairways Residential Home, with particular regard to outlook;
 - Whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to internal space standards and provision of private outdoor amenity space;
 - Whether the proposed development would make adequate provision for the disposal of surface water;
 - The effect of the proposed development on existing public wastewater infrastructure; and
 - The effect of the proposed development on highway safety, with particular regard to off-street parking provision.

Reasons

Character and Appearance

4. The appeal site comprises an area of garden, located to the side of No.20 Oakville Road. The appeal site is an irregular shaped plot, which is prominently sited at the head of a small cul-de-sac of bungalows, most of which are semi-detached. It is located next to a turning head, which also leads to a secondary access to the Fairways Residential Home, located immediately to the rear of the appeal site. This building is a substantial three storey building, which faces towards the appeal site. With the exception of this building, the surrounding area is characterised predominantly by residential, single storey buildings with good sized front and rear gardens.
5. The proposed development would comprise a simple, single storey bungalow which would occupy a site with a narrow frontage and extend in a linear form almost all the way to the rear boundary of the site. It would include an area of hard standing for vehicle parking at the front of the plot and small areas of indicative planting to the front and rear. However, the proposed dwelling would utilise the majority of the available plot area and be sited close to existing site boundaries, in some cases within 1 metre of these. As a result, the proposed development would make it appear as a cramped form of development in relation to the plot size. This would be particularly apparent when viewed from the turning head of the cul-de-sac and in the context of neighbouring properties in this part of the cul-de-sac.
6. Whilst I recognise that the scale of the proposed development has been reduced from the previous application¹ on this site, including increasing the separation distances from some boundaries. It would nevertheless still occupy the majority of a narrow plot and result in a cramped form of development that is harmful to the more spacious character and appearance of the area.
7. At present, the appeal site is partially enclosed by a high breezeblock wall, which is at odds with the low boundary walls typically found within the local area. However, the proposed plans show that this would be reduced to a 1-metre-high wall along the front and side boundary which is adjacent to the turning head. A 1.8-metre-high fence would be erected along the boundaries with No.20 and Fairways Residential Home. I therefore find that the proposed boundary treatments would be in-keeping with surrounding development.
8. For the above reasons, I find that the proposed development would by virtue of its scale and proximity to site boundaries result in a cramped form of development that would be harmful to the character and appearance of the area. It would therefore be contrary to Policy DM29 of the Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD, adopted July 2020 (DPD) which requires, amongst other things, new development to contribute positively to the identity and character of the area through good design, having regard to local distinctiveness, appropriate siting, layout, separation distance, orientation, and scale.
9. The proposed development would also be contrary to Paragraph 135 of the Framework which requires new development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of

¹ Planning Application Ref: 22/01106

the development and to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Living Conditions of Existing Occupiers

10. Policy DM29 of the DPD states that new development will be expected to ensure that is no significant detrimental impact to amenity in relation to overshadowing, visual amenity, privacy, overlooking, and massing. The supporting text to Policy DM29 states that there should normally be at least 21 metres between dwellings where windows of habitable rooms face each other and 12 metres where a habitable room faces onto a side wall with no such window. The supporting text to the policy also recognises that there may be instances where these minimum distances need to be increased or reduced depending on circumstances, for example site topography or density considerations.
11. In this particular case, the blank gable of the proposed dwelling would be located approximately 4 metres, at its closest point, from windows within a primary elevation of Fairways Residential Home. Whilst I have not been provided with detailed floor plans of the care home, according to the evidence provided by the Council and third-party representations, the affected windows serve bedrooms and living rooms within a residential care home. They are therefore habitable windows.
12. The height of the proposed single storey dwelling would measure approximately 4.85m to the ridge, with an eaves height of approximately 3 metres high. Therefore, I find that the proximity and scale of the proposed development would result in a dominant form of development that would lead to both overshadowing and loss of outlook for the occupiers of this property.
13. Whilst I acknowledge that the scale of the proposed development has been reduced from a two-storey dwelling, which was proposed under previous application² on the site, it would still be located in close proximity to habitable windows of Fairways Residential Home and would by virtue of its height and proximity cause unacceptable harm to the outlook of the occupiers of this property.
14. Consequently, the proposed development by virtue of its height, proximity to site boundaries and to windows in a neighbouring property would result in unacceptable harm to the living conditions of the existing occupiers of Fairways Residential Home, with particular regard to outlook. It would therefore be contrary to Policy DM29 of the DPD which requires, amongst other things, new development to ensure that is no significant detrimental impact to amenity on relation to overshadowing, visual amenity and massing.
15. The proposed development would also be contrary to Paragraph 135 of the Framework which requires new development to ensure a high standard of amenity for existing and future users.

Living Conditions of Future Occupiers

16. Policy DM2 of the DPD states that proposals for residential development will be supported where all new dwellings meet the Nationally Described Space Standards (or any future successor) (NDSS).

² Planning Application Ref: 22/01106

17. The NDSS sets a minimum floor space requirement of 70m² for a 2 bed, 4-person, single storey dwelling. Based on the information provided on the submitted plans, the proposed dwelling would fall below this minimum standard, according to the Council, providing internal floorspace measuring 62m². Accordingly, it would fail to meet the minimum standards set out in the NDSS for a 2 bed, 4-person, single storey dwelling.
18. In relation to outdoor amenity space, the supporting text to Policy DM29 of the DPD states that rear gardens should look to achieve at least 10 metres in depth, unless there are overriding design reasons to justify a reduced depth. It also expects a minimum of 50m² of useable, private amenity space to be provided for a two-bedroom house and to ensure neighbouring private amenity open space will not be overlooked.
19. The private amenity space that would be provided by the proposed development would achieve approximately 50m². However, the area of garden located to the rear of the property has a depth of approximately 1.3 metres, significantly below the suggested minimum depth. Furthermore, the remaining areas of private amenity space to be provided around the dwelling, are mostly comprised of narrow strips of land, which would fail to provide usable garden spaces for future occupants of the property.
20. In addition, the outdoor amenity space also includes parking for two vehicles. Therefore, the actual amount of useable outdoor space for future occupiers would be significantly below the minimum requirements set out above. It would also be much smaller than the size of gardens typically found in the surrounding area.
21. For the above reasons, the proposed development would not provide adequate living conditions for future occupiers, with particular regard to internal space standards and provision of private outdoor amenity space. It would therefore be contrary to Policies DM2 and DM29 of the DPD which require amongst other things, proposals for residential development to comply with the NDSS and provide adequate provision of private outdoor amenity space.
22. The proposed development would also be contrary to Paragraph 135 of the Framework which requires new development to ensure a high standard of amenity for existing and future users.

Surface Water Drainage

23. Policy DM34 of the DPD states all new development should implement sustainable drainage systems and that alternatives will only be permitted where it has been demonstrated to be inappropriate or impracticable. The supporting text also outlines that surface water drainage hierarchy which should be used.
24. The information provided within the application form indicates that the surface water will be drained into the existing combined sewer, which crosses the site. The application was not supported by any detailed drainage proposals, nor have I been presented with any substantive evidence to demonstrate why it would be inappropriate or impracticable to utilise sustainable drainage systems.
25. Whilst the appellant disputes the need for a drainage assessment, Policy DM34 of the DPD and its supporting text is clear that where sustainable drainage systems are not being used and discharge will be to the existing system, the

application must demonstrate why no alternative exists and submit clear evidence that discharge will be limited to an attenuated rate, including an allowance for climate change. This information has not been provided.

26. Consequently, in the absence of any such information to demonstrate that sustainable drainage solutions are inappropriate or impracticable, I find that it has not been demonstrated that would make adequate provision for the disposal of surface water. It would therefore conflict with Policies DM29 and DM34 of the DPD which require amongst other things, surface water to be managed sustainably within new development and that proposals will use Sustainable Urban Drainage Systems in accordance with the Surface Water Drainage Hierarchy.
27. It would also conflict with Paragraph 173 of the Framework which states that development should incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate.

Mains Sewer

28. I understand from the evidence provided by the Council that a combined sewer runs under the appeal site. This is confirmed by United Utilities who have objected to the application on the basis that they require any new buildings to be sited at least 3 metres from either side of the main and supported by a survey, vibration assessment and construction details. Alternatively, they would require the sewer to be diverted at the appellant's expense and prior to commencement of any development.
29. As identified above, the appeal site is constrained, measuring approximately 12.8 metres at its widest point, but approximately 7.8 metres at its narrowest. The proposed dwelling would occupy the majority of the available plot, meaning that it would not be possible to achieve the required separation distances from the existing combined sewer within the plot itself.
30. Whilst I acknowledge that the appellant has indicated a willingness to divert the sewer if required, it has not been demonstrated that a diversion would be feasible. Without a sewer diversion, the proposed dwelling may be undeliverable on the appeal site. Therefore, with no guarantee that a diversion would be feasible, I cannot be satisfied that the development would be acceptable in terms of its impact upon the existing public sewage network.
31. I have considered whether this could be addressed by imposition of a suitably worded planning condition. However, there is no evidence before me to indicate that this matter is capable of been addressed and as this is critical to whether or not the site is capable of being developed, I find that this cannot be dealt with by imposition of a planning condition.
32. Consequently, it has not been demonstrated that the proposed development would not result in harm to existing public wastewater infrastructure. It would therefore be contrary to Policies DM1 and DM36 of DPD which require, amongst other things, new development to protect water resources and existing infrastructure and to ensure existing infrastructure can accommodate any impact of the development.

Highway Safety

33. Policy DM62 states that development proposals will be considered to be acceptable where there is parking provision that accords with the requirements of Appendix E of the DPD, which requires provision of 2 parking spaces for a 2-bedroom dwelling. The Council expects each parking space to be a minimum of 5 metres by 2.4 metres.
34. Although not raising an objection to the proposed development, the Highway Development Control Team of Lancashire County Council sets out that a two-bedroom dwelling should provide at least two off-street parking spaces to ensure a negligible impact on highway safety and highway capacity within the immediate vicinity of the site. These spaces should measure at least 5m in length and 2.4m wide, where they are adjacent to a fence or similar obstruction an additional width of 0.6m should be provided. If the driveway has shared pedestrian access an additional 0.8m should also be provided.
35. The submitted plans show that two cars can be parked in front of the proposed dwelling. However, due to the constrained nature of the site, I have not been presented with any compelling evidence that the minimum parking standards, outlined above, can be provided within the appeal site.
36. The proposed development would be like to result in an increased demand for parking within the area, and in close proximity to the turning head, which also provides access to the residential home. Due to the location of the appeal site, close to the turning head and with a number of dropped kerb providing access to driveways of neighbouring properties, on-street parking provision is limited. Consequently, I am unable to conclude that the increased demand for parking arising from the proposed development would not be detrimental to highway safety.
37. For these reasons, I therefore find that it has not been demonstrated that the proposed development would not cause harm to highway safety, with particular regard to off-street parking provision. The proposed development would therefore be contrary to Policy DM62 of the DPD, which requires amongst other things, the design of the proposal to incorporate provision of car and cycle parking that accords with the levels and layout requirements set out in Appendix E of the DPD.

Other Matters

38. I have had regard to the location of the proposed development, which is within the built-up area of Heysham and its proximity to local services and transport connections. The proposal would also result in additional housing supply which would contribute to overall housing delivery target of the area.
39. The appeal site is within approximately 700m of Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay and Duddon Estuary Special Protection Area (SPA), Morecambe Bay Ramsar and Morecambe Site of Special Scientific Interest (SSSI). Additionally, the site also lies within 2km of Heysham Moss SSSI and Lune Estuary SSSI. As a result of the proximity of the proposed development to the sensitive sites, it could have a detrimental impact upon these internationally designated sites, particularly as a result of increased recreational pressure and disturbance.
40. Had I concluded that the development would be acceptable in terms of the main issues, it would have been necessary to investigate the effect of the

proposal on the integrity of the SAC, SPA, Ramsar site and SSSIs as part of Habitats Regulation Assessment and Appropriate Assessment. However, as I have found harm in respect of the main issues, I have not considered this matter further.

Planning Balance

41. As stated above, the proposed development would involve the creation of an additional residential unit, which would make a small contribution to the overall housing supply within the area. However, in this particular case, and taking into account all the above matters, the benefits associated with the small contribution to housing supply would be limited and therefore not sufficient to outweigh the harm I have identified to the character and appearance of the area, living conditions of neighbouring and future occupiers, drainage and highway safety.

Conclusion

42. Consequently, for the above reasons, the proposed development conflicts with the development plan taken as a whole. There are no material considerations of sufficient weight to indicate that a decision should be taken otherwise in accordance with the development plan. Therefore, the appeal is dismissed.

K Lancaster

INSPECTOR