



Appeal Decision

Site visit made on 20 February 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2024

Appeal Ref: APP/M0933/W/23/3328489

Cark Manor, Cark, Grange over Sands LA11 7PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Tangerine Holdings against the decision of South Lakeland District Council.
 - The application Ref SL/2023/0003, dated 23 December 2022, was refused by notice dated 28 February 2023.
 - The application sought planning permission for change of use from residential dwelling (Use Class C3) to a mixed use of residential dwelling (Use Class C3) and holiday let (Sui Generis) and the formation of hard standing for car parking (part retrospective) without complying with a condition attached to planning permission Ref SL/2020/0364, dated 26 February 2021.
 - The condition in dispute is No 4 which states that: Prior to the first use of the holiday let use, full details of the proposed one way system to access and exit the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first use of the holiday let use and be maintained operational thereafter.
 - The reason given for the condition is: In the interests of highway safety.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Based on the submitted evidence, the appeal property has been occupied for holiday purposes. I have therefore dealt with the appeal under section 73A of the Town and Country Planning Act 1990.
3. In April 2023, South Lakeland District Council merged with Barrow-in-Furness Borough Council and Eden District Council to form Westmorland and Furness Council. The development plans for the merged local planning authorities will remain in place for the area within the new authority until such time as they are revoked or replaced. I have determined the appeal on this basis.
4. The National Planning Policy Framework (the Framework) was amended in December 2023. I am satisfied that the amendments made have not had a material bearing on how the appeal proposal is considered. References in the decision are to the December 2023 Framework.

Background and Main Issue

5. In April 2021, planning permission was granted to allow the dwelling to be used as a holiday let as well as for residential use. The development was permitted subject to several conditions including no. 4 as detailed above, which requires the implementation of a one-way system for vehicles. The intended one-way system was based on the vehicle entry being from the access from Station Road (the B5278) with the exit being onto Sunny Bank. The reason for requiring a one-way system for vehicles to enter and exit the site was because it was considered that the holiday use would intensify vehicle movements at the site, and the access onto Station Road was identified by the Council as having poor visibility. It is this condition which the appellant wishes to remove.
6. The main issue is therefore whether it is necessary and reasonable to have a one-way system for vehicles in the interests of highway safety.

Reasons

7. Paragraph 115 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
8. The Highway Authority identifies that its required visibility splays for the access onto Station Road would not be met. There is no clear evidence before me to suggest that lower visibility distances may be acceptable.
9. The nature and location of the guests' car park means that vehicles would be able to manoeuvre in and out of the access onto Station Road in a forward gear. I also appreciate that the appellant maintains the hedgerow along Station Road. Nevertheless, on the basis of the submitted evidence and my site visit observations, it is clear that, due to their height and position, the stone pillars at the entrance point and those that form part of the boundary features along Station Road together with the stone wall and railings, impede visibility in both directions.
10. It is therefore unlikely that a driver exiting this access even in a forward direction would have a full view of the road until after the vehicle has manoeuvred onto the footpath and then into the road. This is supported by my own experience of exiting this access point. Furthermore, a driver is unlikely to have a full view of the footpath until after the bonnet of the vehicle has manoeuvred onto it, presenting a risk to pedestrians, especially small children.
11. In addition, the access is not wide enough to accommodate a vehicle exiting and entering at the same time. Even if this was to occur relatively infrequently, it presents a concern about the implications for the safe movement of vehicles and traffic flow on the highway, given the limited visibility at the junction.
12. The fact that guests are made aware of the nature of the access would not adequately mitigate these concerns.
13. The evidence identifies that the property can accommodate around 20 guests. The appellant's figures identify that while some of the bookings have been for groups of around 20, there have been occasions where guest numbers have been less. Nevertheless, the planning permission allows for up to 20 individuals to occupy the property at any one time.

14. I appreciate that not every guest will travel to the property independently and there will likely be some degree of car sharing, as demonstrated by the appellant's evidence on guest and vehicle numbers. The appellant states that the average number of cars per stay is just over 8, while one stay out of those identified generated 16 vehicles. The Highway Authority consultation response identifies that it was aware of the vehicle numbers using the site during certain periods, but it continued to raise an objection to the proposal to remove the disputed condition.
15. The appellant states that since permission was granted for the change of use, the main use of the property has been residential rather than as a holiday let. However, there appears to be nothing in the permission that restricts how often the property can be used as a holiday let.
16. There may have been no recorded incidents associated with the use of the access onto Station Road. Nevertheless, this cannot provide confirmation of the future effect on highway safety if the appeal is allowed, which is the issue I must consider here.
17. In my view, and notwithstanding what facilities may be onsite and that some guests may walk into the village to access the limited range of services and facilities there, the holiday use of the property would still likely generate a more intensive use of the access than if in a typical residential use. Consequently, in my judgement, the use of the access onto Station Road for vehicles to enter and exit the site would result in a development with inadequate access arrangements. This would present an unacceptable risk to the safety of road users and pedestrians.
18. Consequently, for the above reasons, I conclude that it is necessary and reasonable to have a one-way system for vehicles in the interests of highway safety. Removing the disputed condition would therefore conflict with the highway safety requirements of Policy CS10.2 of the 2010 adopted South Lakeland Local Development Framework Core Strategy (the Core Strategy), Policies DM1 and DM2 of the 2019 adopted Local Plan Development Management Policies, and the objectives of the Framework, in particular paragraph 115 as summarised above.
19. The Council has referred to Policies CS1.1 and CS1.2 of the Core Strategy in its reason for refusal. Policy CS1.1 identifies several sustainable development principles and Policy CS1.2 defines the development strategy. Neither of these policies include criteria specific to highway safety and access. Accordingly, I do not find a conflict with these policies, but this does not alter my conclusion on the acceptability of the proposal.

Conclusion

20. The proposal would conflict with the development plan taken as a whole as well as the Framework. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR