



Appeal Decision

Site visit made on 14 May 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/A2335/W/23/3334704

Pattys Barn, Hillam Lane, Cockerham, Lancashire LA2 0DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Parry against the decision of Lancaster City Council.
 - The application Ref is 23/00882/FUL.
 - The development proposed is the change of use of former shippon to holiday let accommodation and associated works.
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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.
3. Following submission of this appeal, planning permission¹ has been granted for the change of use of the building, without extension, to provide a 3-bedroom holiday let.

Main Issues

4. The main issues are whether the proposed development:
 - is in a suitable location having regard to flood risk; and
 - would be of a high-quality design that would provide adequate and safe living conditions for future occupiers, with particular regard to internal ceiling height.

Reasons

5. The appeal site forms part of a former agricultural unit, which now mostly comprises buildings converted into holiday accommodation. The site is accessed via a private track. The appeal building is a single storey, traditional stone-built structure arranged in an L-shape. It has a pitched, slate roof.
6. The proposed development would involve the change of use of the building to provide a two-bedroom holiday accommodation unit. In addition to the change

¹ Application Ref: 23/01410/FUL

of use, it is proposed to raise the height of the building to enable the two bedrooms to be located within the roof space. The proposal would also involve some changes to the exterior of the building, mainly comprising of the installation of new windows, doors and rooflights.

Flood Risk

7. Paragraph 165 of the Framework advises that inappropriate development in areas at risk of flooding should be avoided, by directing development away from areas of highest risk. The parties agree that the appeal site is within Flood Zone 3, which is land assessed as having a high probability of flooding.
8. Paragraph 174 of the Framework advises, amongst other things, that applications for some minor development should not be subject to the sequential test and the exceptions are listed in footnote 60 of the Framework. These exceptions are householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.
9. The development was described as a change of use, however the works involved to create the holiday accommodation is more than what could reasonably be described as merely a change of use as it would also involve the upwards extension of the building. The extension to the building would create approximately an additional 34m² of floor space. Whilst the extended part of the building would be contained wholly within the existing footprint of the building, it would nevertheless comprise an extension to the building.
10. For the purposes of footnote 60, the Planning Practice Guidance (PPG) gives examples of minor non-residential extensions as being industrial, commercial, leisure etc. Householder development is also defined within the PPG as being sheds, garages, games rooms etc. within the curtilage of the existing dwelling, in addition to physical extensions to an existing dwelling.
11. The appellant states that the proposed holiday accommodation would have a Sui Generis use and not a residential use (C3). However, based on the evidence before me, I find that it would nevertheless provide a form of residential accommodation with all the facilities necessary for day to day living, albeit that it would be occupied for the purposes of short term stays rather than as permanent accommodation. Consequently, I find that the proposal would not comprise a non-residential extension, nor householder development. It would not therefore benefit from the above exemption.
12. My attention has been drawn to the *Sheila Moore v Secretary of State for Communities and Local Government* [2012] EWCA Civ 1202 case which found that *"whether the use of a dwellinghouse for commercial letting as holiday accommodation amounts to a material change of use will be a question of fact and degree in each case... Neither of the two extreme propositions – that using a dwellinghouse for commercial holiday lettings will always amount to a material change of use, or that use of a dwellinghouse for commercial holiday lettings can never amount to a change of use – is correct"*. It therefore follows that whether or not holiday accommodation is a residential use or not will be a matter of planning judgement on a case-by-case basis. Accordingly, this does

not alter my above findings in relation to whether the extension would benefit from the exemption for the requirement to undertake a sequential test.

13. For these reasons, whilst I accept that the list of exemptions contained within the Framework is not an exhaustive list, I have not been presented with any substantive evidence that the exemptions listed in footnote 60 would apply to the proposed development. Consequently, I find in this particular case that a sequential test would be required.
14. The PPG is clear and advises that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. In the absence of such, it cannot be safely concluded that there are no other sites for the proposed development which are at lower risk of flooding.
15. For these reasons, I therefore conclude that the development is not in a suitable location having regard to flood risk. The development therefore conflicts with Policy DM33 of the Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD, adopted July 2020 (DPD) which states that new development will need to satisfy the requirements of the sequential test and exception test where necessary in accordance with the requirements of national planning policy and any other relevant guidance. Where proposals fail to satisfy the requirement of these tests they will be refused.

Standard of Accommodation

16. The existing building is single storey and notably lower in height than the adjoining building. The proposed development would involve raising the ridge height by approximately 0.4 metres and the creation of two bedrooms and a WC. Due to being located within the roof space, these rooms would have a restricted ceiling height.
17. Although the submitted plan has been annotated with a note which states that a minimum ceiling height of 2 metres could be provided above the staircase², these annotations do not appear to include the landing area. Furthermore, the note is not accompanied by any detailed measurements, which have been disputed by the Council. Consequently, I find it has not been demonstrated that the proposal would provide adequate floor-to-ceiling heights.
18. I accept that the proposal would not involve the creation of permanent residential accommodation and that future occupiers of the holiday accommodation would only occupy the proposed development on a short-term basis and as a result would generally have lower expectations in relation to living condition standards than permanent residents. However, whilst the proposed development is not required to adhere to the Nationally Described Space Standards (NDSS) or other relevant guidance for permanent residential accommodation, the National Design Guide states that well-designed buildings are expected to be functional, accessible, and sustainable. The deficiencies in floor-to-ceiling heights proposed would result in harm to the functionality, safety, and quality of accommodation to be provided.
19. For the above reasons, I find that the proposed development would not be of a high-quality design that would provide adequate and safe living conditions for

² Current Guidance: Building Regulations Approved Document K – Diagram 1.3

future occupiers, with particular regard to internal ceiling height. It would therefore be contrary to Policy DM29 of the DPD sets out the key design principles which apply to new development, including requiring good design that ensures safety and security are fully considered.

20. It would also be contrary to Paragraph 135 of the Framework states that development should be functional, visually attractive and create places which are safe, inclusive, and accessible and provide a high standard of amenity for future users. Paragraph 139 of the Framework states that development that is not well-designed should be refused.

Other Matters

21. The site is within the Zone of Influence of the Morecambe Bay Special Area of Conservation (SAC), Morecambe Bay and Duddon Estuary Special Protection Area (SPA), Morecambe Bay Ramsar site and the Impact Risk Zone of the Lune Estuary Site of Special Scientific Interest (SSSI). Due to the proximity of the proposed development to these sites, it could have a detrimental impact upon these internationally designated sites, particularly as a result of increased recreational pressure and disturbance.
22. 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.

Conclusion

23. 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