



Appeal Decision

Site visit made on 21 November 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 26th March 2025

Appeal Ref: APP/A2335/W/24/3349934

66 Kellet Road, Carnforth, Lancashire, LA5 9LP

- 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 Matthew Fox against the decision of Lancaster City Council.
 - The application Ref is 23/01248/FUL.
 - The development proposed is new dwelling and new associated vehicular access.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs has been submitted by Mr Matthew Fox which is the subject of a separate decision.

Preliminary Matters

3. Whilst the officer report was not available at the time the appeal was submitted, the appellant has had the opportunity to comment on this in their final comments.
4. The National Planning Policy Framework (the Framework) was revised in December 2024 and the main parties have been consulted on the implications of the revised Framework's publication on the appeal.
5. Since the submission of the appeal, the Council adopted on 22 January 2025, a climate emergency review of the Local Plan for Lancaster District 2020-2031, Part One: Strategic Policies and Land Allocations Development Plan Document, and Part Two: Development Management Development Plan Document (DPD). The main parties have been consulted on the implications of these documents on the appeal.

Main Issues

6. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposed development would be at an unacceptable risk of flooding; and
 - whether the proposal would provide acceptable living conditions for the occupiers of No 66 Kellet Road with regards to privacy.

Reasons

Character and appearance

7. The appeal property is a semi-detached, stone-built house that fronts the B6424 and is close to the Lancaster-Carnforth canal. It is within an irregular shaped plot that curves along one side and extends some considerable distance to the rear. The area is largely residential.
8. The property, No 66 Kellet Road (No 66), has a stone, double bay on the front elevation. I saw that stone bays, although usually only on the ground floor, are characteristic of the properties on the southern side of Kellet Road where the site is located. Like No 66, the houses are well built with broad, stone, side elevations and robust, stone-built chimneys. No 66 has a two-storey outrigger with attached single storey extensions. There is an existing vehicular access at the side of the house leading to a parking area. Along the front of the site is a tall boundary wall. The rear garden contains several small trees, and the site is fringed by trees and bushes.
9. The proposed development would subdivide the existing plot and construct a four-bedroom dwelling next to, and at a 90-degree angle to, the rear elevation of No 66. A new highway access would be created from Kellet Road. The main part of the proposed house would have a pitched roof, mirroring the side elevation of No 66. However, it would be steeper and higher than that found on the host dwelling.
10. The living accommodation would be over four floors, including a basement, with the side elevation that would face towards Kellet's Road having full height glazed doors and a Juliette balcony within the apex of the gable elevation. Beneath this would be two smaller windows on the 1st floor, with a narrow full height window on the ground floor. This would be the most visible elevation when approaching the site from the centre of Carnforth. Its render finish, positioning of windows, and the Juliette balcony high on the gable elevation, would appear incongruous and uncharacteristic of the robust, stone built, side elevations visible on the housing nearby. This would be more so because of its close attachment to the host dwelling.
11. Whilst most of the window openings would be on the south-west, facing towards the garden and away from public views of the site, the front elevation would be parallel to Kellet Road. Whilst the appellant has agreed to opaque glazing on windows at the front to prevent any overlooking of No 66, in the centre of the façade there would be extensive glazing from ground to eaves level. This would be uncharacteristic of any buildings nearby. Being attached to the host building, it would dominate and overwhelm the original building and its traditional character.
12. In order to reduce the massing and 'separation' from both the neighbouring house, No 68 Kellet Road (No 68), and the host property, single-storey, flat roofed extensions would be built, partly with a sedum roof. Notwithstanding this, the site is very open to the rear and side, where there are no other buildings. Therefore, the proposal would be highly visible, and the varying materials used, including timber and render, as well as three different roof materials, would create a discordant development, untypical of what is around it.
13. The site is located within Focus Area C as set out in the Carnforth Design Code (CDC), although the appellant considers that it is within the wrong zone, having

done their own local vernacular study. This part of Kellet Road is relatively straight, with a linear focus, followed by the road gently curving to a second line of stone fronted properties beyond Prince Avenue. This results in a traditional pattern of stone housing along the roadside, which provides a cohesive appearance and character to the area.

14. Whilst the proposed house would use contemporary materials as set out in the CDC, these, as well as the position of the new dwelling, would be unlike the other buildings around it, and would be unsympathetic to the general characteristics of the area. Consequently, I conclude that the proposed development would harm the character and appearance of the area.
15. It would not accord with Policy DM29 of the Local Plan for Lancaster District 2011-2031 Part Two¹, 2020, (DMDPD) and Policy CNDP HD3 of the Carnforth Town Council Neighbourhood Plan, 2020-2031, 2022, (CNP) which collectively requires development to contribute positively to the identity and character of the area through good design having regard amongst other things to, local distinctiveness, appropriate siting, layout, materials, separation distances, orientation and scale.

Flood risk

16. The site is in flood zone 1, with a medium risk of surface water flooding, and the whole site susceptible to groundwater flooding. The appellant has documented the difficulties of getting accurate information on flood risk and has stated that the Lead Local Flood Authority (LLFA) has no record of any flooding at the site from any source in the past five years. However, a sequential test (ST) should be applied when any part of the site is at risk of any source of flooding.
17. The sequential test that was carried out identified fifteen sites across the district of Lancaster, and two sites with planning permission and with a lower risk of flooding. However, there is some dispute between the main parties over the availability of sites and whether existing approvals are likely to be implemented. As such, several sites have been ruled out. Additionally, the appellant has highlighted that the Lancaster Self Build Register, 2023, had 53 requests for available plots, demonstrating that the demand for building sites cannot be met.
18. Since then, the revised Framework has been published and advises that if all new developments, including access and egress routes are outside areas at risk of flooding, they can be considered for development. However, part of the northern area of the site is within an area considered at medium risk of surface water flooding, which would coincide with part of the access. Whilst the appellant refers to the development not being at risk of flooding because of existing and proposed levels within the site, the PPG highlights 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.
19. Whilst the appellant owns the site of the proposal, land ownerships, viability and the location of the site do not exempt the proposed development from the need to be subject to a ST. Therefore, despite the ST that has been carried out, and based on the evidence before me, I am unable to conclude that the proposed development would not be at an unacceptable risk of flooding. It would conflict with DMDPD Policy 33 which requires proposals to minimise the risk of flooding, with

¹ Review of the Development Management DPD

consideration to all sources of flood risk, and chapter 14 of the Framework which advises that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source.

Living conditions of No 66

20. The proposed house would abut No 66, with the Council stating that the two-storey element would be 3.5m from the two-storey outrigger and 9.5m from the rear elevation of the main body of the house. These figures have not been disputed by the appellant, and I have no reason to disagree. This would result in the property being so close to No 66 that the occupiers would likely feel constricted by the development to their rear.
21. Whilst the evidence does not include floor plans of the existing house, the existing elevation drawings show that both the outrigger and the rear elevation have windows on the ground and 1st floors. Although the new house would have no habitable spaces facing No 66, and windows on the front elevation would have opaque glazing, the proposed windows would be very close to the existing windows on No 66. Therefore, whilst this would not result in direct overlooking, it would contribute, in combination with the close physical distance between the two properties, to overwhelm and affect the privacy of the occupiers of No 66.
22. I therefore conclude that the proposal would harm the living conditions of the occupiers of No 66 with regards to privacy. It would not accord with DMDPD Policy DM29 which amongst other things, requires development to ensure that there is no significant detrimental impact to amenity in relation to overshadowing, privacy and overlooking.

Other Matters

23. The site is within 3.454km of the Morecambe Bay and Lune estuary, designated as a Special Protection Area (SPA), Special Area of Conservation (SAC), Ramsar site and Site of Special Scientific Interest (SSSI). I must therefore have regard to the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations), and as advised by Natural England, a Competent Authority must consider the implications of the development on these habitat sites. However, as I am dismissing the appeal, it is not necessary to address this matter further.
24. The development proposal has been screened² which identified that it was not likely to have significant effects on the environment and that it is not Environment Impact Assessment (EIA) development. Therefore, this matter does not need further consideration.
25. The main parties were consulted on the DPD published in January 2025. Whilst this now requires residential development to provide a sustainable design statement, as set out in Policies DM30a and DM30b, the Council considers that, in this instance, this could be secured through conditions. I have no reason to disagree with this.
26. The appellant has set out, in response to the DPD, that the proposed development is in a sustainable location, with access to public transport and is next to a cycle network. Moreover, it has been designed to respond to climate change, with solar panels and energy efficient technologies and construction methods to reduce

² Town and Country Planning (Environmental Impact Assessment) Regulations 2017

environmental impacts, as well as a green roof to improve biodiversity. The proposed house would, additionally, exceed the requirements within the Nationally Described Space Standards³. This provides medium weight in support of the appeal.

27. The appellant refers to a policy map within the DPD showing land next to No 66 being suitable for housing, despite the Environment Agency flood map identifying several areas at high risk of surface water flooding. Whilst they consider that this shows inconsistency by the Council with regards to flood risk, I do not know the full circumstances, and I have, in any case, determined the appeal on its own merits, based on the evidence before me.
28. Whilst the appellant states that the installation of further measures such as a sustainable drainage system and rainwater attenuation tanks would be acceptable and could be conditioned, these matters are not part of the proposal before me. Although hardstanding has been included with the definition of previously developed land within the revised Framework, the use of the land in this respect is not a matter of dispute that would affect the outcome of the appeal.
29. The appellant has referred to a development behind Kellet Road⁴, however, no substantive evidence of this proposal has been provided. Therefore, it is of limited weight in the determination of the appeal.
30. Whilst the appellant refers to the assessment of the application by the Council, and a suggestion that the application was withdrawn, rather than agreeing an extension of time, these are matters between the main parties and do not affect my determination of the appeal.

Planning Balance and Conclusion

31. The Council acknowledge that they cannot demonstrate a five-year housing land supply. Hence, given this shortfall, paragraph 11d) of the Framework needs to be considered. However, the site is within the impact risk zone of a designated habitat site, and in an area at risk of flooding. Therefore, there are strong reasons for refusing the development proposed, and the presumption in favour of sustainable development as set out in paragraph 11d) of the Framework does not apply.
32. The proposal would, however, result in an additional house in a service centre close to amenities and transport, and provide some limited economic benefits during construction, and from the occupiers in the future. Adequate parking would be provided for both the existing and proposed house and a safe access created, as well as a photovoltaic array on the roof of the new house for energy efficiency, and a green roof to increase biodiversity. However, having regard to all matters raised, I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, planning permission should not be granted, and the appeal is dismissed.

M J Francis

INSPECTOR

³ Technical housing standards – nationally described space standard, 2015

⁴ Ref 16/01536/OUT and 17/01496/REM