



Appeal Decision

Site visit made on 27 May 2025

by **C Livingstone MA(SocSci) (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 June 2025

Appeal Ref: APP/F0935/W/25/3361086

Land neighbouring 82 Longlands Road, Carlisle, Cumberland CA3 9AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Simon Tucker against the decision of Cumberland Council.
 - The application Ref is 24/0471.
 - The development proposed is erection of a detached 4 bedroomed residential dwelling in former residential garden, together with associated new vehicle access to neighbouring property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the living conditions of the occupants of 104 Longlands Road in regard to light and outlook; and
 - the effect of the development on the integrity of the River Eden Special Area of Conservation (SAC).

Reasons

Living Conditions

3. The appeal site is located in a primarily residential area and relates to a part of the garden of 82 Longlands Road (No 82), a large detached two storey dwelling. The property includes a generous garden area bound by mature hedging and high fencing. Neighbouring property 104 Longlands Road (No 104) shares a side boundary with the appeal property.
4. The proposed development is for the erection of a detached two storey dwelling on part of the garden ground of No 82. The side elevation of the proposed dwelling would be close to the side elevation of No 104 and it would align with the front and rear elevations of this property.
5. The kitchen window within No 104 is on its side elevation, facing the appeal property. There is a secondary smaller window on the rear elevation which serves a utility area which is separated from the kitchen by a narrowed opening. Based on the evidence before me, including my observations on the ground the size of this window and its physical separation from the main kitchen area significantly limits the amount of light to the kitchen from this window. As such the window on the

side elevation provides the primary outlook and source of natural light and ventilation to the kitchen area.

6. There is some dispute between the main parties regarding the separation distance between the proposed dwelling and the side elevation of No 104. The Council considers that the separation distance equals 4.7m while the appellant considers that it is closer to 5m. Either way, the proposed dwelling would be in close to the primary kitchen window that serves No 104. The proximity of the proposed dwelling and its height and scale would be such that it would significantly restrict the outlook of the occupants of No 104 from this window. Based on the size and position of the proposed dwelling, and the orientation of No 104, it is also likely that the proposal would have a harmful effect on daylight and sunlight levels within the kitchen area of this dwelling.
7. It is acknowledged that the existing boundary hedge between the properties may limit outlook and light to the kitchen within No 104, to a degree, as existing. However, the harmful impact of a two storey dwelling in the position proposed would be likely to be much greater.
8. For the reasons detailed above the proposed development would have a harmful effect on the living conditions of the occupants of 104 Longlands Road in regard to light and outlook. Therefore it would be contrary to Policies HO3 and SP06 of the Carlisle District Local Plan 2015-2030 (CDLP) which require that development proposals do not adversely affect the residential amenity of adjacent land uses and that housing development in gardens does not result in unacceptable loss of living conditions to surrounding properties by loss of light and overbearing nature.

River Eden SAC

9. The site lies within the catchment area of the River Eden SAC where nutrient pollution arising from further overnight accommodation, unless mitigated or treated, is likely to adversely affect the integrity of the habitats concerned. The proposal is for the foul water from the development to enter the mains system. A Drainage Report and Nutrient Statement by Kingmoor Consulting, dated June 2024, found that the development would result in an increased TP load of 0.27 and included the suggestion that nutrient credits could be purchased to offset the impact of the development.
10. Based on the evidence before me there is no mechanism to off-set harm in relation to nutrient pollution or a mechanism for nutrient credit trading. The appellant asserts that landscaping within the site would aid natural percolation. However, there is no evidence before me to clearly demonstrate that the development would not result in increased nutrient pollution and allowing an appeal on a 'permission in principle' basis in regard to this matter would not be appropriate.
11. For reasons detailed above the development would have a harmful effect on the integrity of the River Eden Special Area of Conservation (SAC). Therefore, the proposal is contrary to Policy G13 of the CDLP which highlights the need to conserve or enhance biodiversity and states that planning permission would be refused if significant harm resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated for.

Other Matters

12. My attention has been drawn to dwellings in the area that have a similar separation distance as the proposed dwelling and No 104. However, the planning history and floor plans of these dwellings have not been provided. As such I cannot be certain that they have primary windows on either of their side elevations. As such, I cannot be certain that the circumstances in the examples provided reflect the details of the appeal before me.
13. The Council considered that the development would not harm any heritage assets, it also had no concerns in regard to flood risk or the privacy of neighbouring occupants. Based on the evidence before me I have no reason to disagree with the Council on these matters. Still, an absence of harm is a neutral factor weighing neither for nor against the proposal.
14. Stanwix Rural Parish Council have submitted a representation which supports the proposed development, the points they raise are addressed above. While their support is a material consideration it is of insufficient weight to outweigh the harm identified which is contrary to the development plan as a whole.
15. The proposed development would provide a four bed family home. However, the conflict with the development plan, and the associated harm are significant and overriding factors. The other material considerations in this case, including the limited contribution to housing supply, do not indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

16. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR