



Appeal Decision

Site visit made on 17 July 2025

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2025

Appeal Ref: APP/A2335/W/25/3363757

5 Dalton Road, Lancaster LA1 3HD

- 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 Lindsay Robertson against the decision of Lancaster City Council.
- The application Ref is 24/00033/FUL.
- The development proposed is erection of 1 new dwelling and associated landscaping and access.

Decision

1. The appeal is allowed and planning permission is granted for erection of 1 new dwelling and associated landscaping and access at 5 Dalton Road, Lancaster LA1 3HD in accordance with the terms of the application, Ref 24/00033/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. In January 2025, and since the Council made its decision, the Lancaster District Local Plan 2020-2031 Parts 1 and 2 (climate emergency review) (the LP) has been adopted. I have been provided with copies of policies within the local plan now in force and, having regard to Section 38(6) of the Planning and Compulsory Purchase Act 2004, I have determined the appeal with regard to them.
3. Furthermore, in December 2024, shortly after the Council issued its decision, a revised version of the National Planning Policy Framework (the Framework) was published. In making my decision, I have had regard to the Framework.

Background and Main Issues

4. The Council's first reason for refusal articulated its concern that the appeal site is located within an area at risk of groundwater flooding and that the proposal failed to pass the sequential test. However, since the Council made its decision, an updated Strategic Flood Risk Assessment has been published. The Council has confirmed that the appeal site is now deemed to be at low risk from all sources of flooding, including groundwater, and that, in turn, the proposal is no longer required to pass the sequential test. Consequently, the Council has stated that it no longer has flood risk related objections to the proposed development.
5. In the circumstances, the subject of the Council's first reason for refusal is not a main issue in my determination, and I consider that the main issues are:
 - The effects of the proposed development on the gardens adjacent to the northern boundary of the appeal site, with specific reference to the outlook and light afforded to the occupiers of those gardens; and
 - The effects of the proposed development on the integrity of European Sites.

Reasons

Garden Effects

6. The appeal site comprises of garden land with garaging. Its character is mature, and it contains trees and other plantings. Beyond the appeal site to the north are a series of other gardens which are long but narrow. Many of these gardens are also mature, and they similarly contain trees and other established landscape features. The nearest of these gardens are those to the rear of 39 Ullswater Road and 42 Grasmere Road.
7. Due to the presence of trees and landscape features within the appeal site, and within parts of the nearest gardens beside it, the neighbouring back gardens that concern the Council will already be the subject of some shading – particularly during those times of the year when vegetation is in full leaf. As part of the proposal, some of the trees within the appeal site would be removed. Consequently, some of the features resulting in shading effects would be removed, and this would provide some mitigation for the shading effects which would arise as a result of the proposed dwelling's positioning close to neighbouring gardens.
8. Therefore, although in the round the dwelling's introduction onto the site would reduce the amount of light reaching neighbouring garden land compared to the current situation, these effects would arise within a context whereby considerable shading already prevails. I find that the change in circumstances which would arise in respect of light levels within neighbouring gardens would not be especially pronounced nor unduly harmful.
9. The proposed dwelling would be centrally positioned within the appeal site, approximately equidistant from the terraced properties on either side. As a result, only relatively small stretches of the neighbouring gardens would be directly flanked by the proposed dwelling's northern elevation. This layout would help to moderate any enclosing effect that might otherwise arise. Consequently, the proposal would not be overbearing, and it would not unacceptably affect the outlook afforded to the occupiers of the gardens adjacent to the northern boundary of the site.
10. Previous appeal decision APP/A2335/W/23/3325254 related to the appeal site. In that case, an inspector dismissed a proposal for 2 dwellings. In the decision, the Inspector's main issue in relation to effects upon the living conditions of neighbouring occupiers concerned not only adjacent gardens but also the proximity of the proposed dwellings to existing dwellings. Therefore, in concluding that the effects of the 2 dwellings upon neighbouring occupiers would be unacceptable, a broader range of factors were of significance than applies in my case.
11. More generally, I also note that the Inspector identified a total of 4 main issues and cited development plan policy conflicts in relation to 3 of them. Together with the differences in dwelling number and development layout, this means that there are factors which distinguish the context in which the previous appeal decision was made from that of the appeal before me. Furthermore, I have come to my own views on this appeal having regard to the evidence before me now and my own experience. Therefore, whilst I have had regard to the previous appeal decision, circumstances are such that I find it appropriate to come to the views I have reached in respect to garden effects and living conditions.

12. For these reasons, I find that the effects of the proposed development on the gardens adjacent to the northern boundary of the appeal site, with specific reference to the outlook and light afforded to the occupiers of those gardens, would be acceptable. Therefore, the proposal accords with Policy DM29 of the LP which, amongst other matters, seeks to ensure that developments would not result in significantly detrimental amenity impacts, including in respect of overshadowing, visual amenity, or by reason of a proposal's massing. The proposal also complies with those policies within the Framework which seek to ensure that developments function well, promote well-being and achieve a high standard of amenity for existing site users.

European Sites

13. Morecambe Bay is a large, very shallow, predominantly sandy bay at the confluence of a number of estuaries. The area contains sites statutorily defined as European Sites, or those which are attributed the same level of protection, under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). This includes the Morecambe Bay Special Area of Conservation (the SAC), the Morecambe Bay and Duddon Estuary Special Protection Area (the SPA) and the Morecambe Bay Ramsar Site. Furthermore, Sites of Special Scientific interest underpin areas within the aforementioned sites.
14. The qualifying feature habitats of the SAC are extensive but include amongst them certain dunes, Atlantic salt meadows, coastal lagoons, estuaries, reefs and sandbanks. In terms of species, the SAC's qualifying features are its great crested newts. The SPA's qualifying features are its assemblages of various breeding and non-breeding birds and its waterbird assemblages. This includes gulls, such as the herring gull and lesser black-backed gull, and its terns, such as the little tern and the sandwich tern. The designation of Morecambe Bay as a Ramsar Site also relates to the area's waterbird interest and significance.
15. The SAC's conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features. Similarly, the SPA's conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate and that the site contributes to achieving the aims of the Wild Birds Directive. These objectives are to be achieved through the maintenance and restoration of the population and distribution of its qualifying features and their habitats.
16. Recreational activities undertaken by residents and visitors to Morecambe Bay can disturb and harm the habitats and species which provide the reason for the aforementioned site designations. The proposed development would deliver a single additional dwelling and would contribute to the recreational activities and consequential effects. This contribution would be limited by itself, however, in combination with other development in the area, it is likely to have significant effects on the SAC, the SPA and the Ramsar Site and, consequently, adversely affect the integrity of the sites. As such, the Habitats Regulations require that an Appropriate Assessment is carried out.
17. A means by which to prevent such adverse effects upon the European Sites is through homeowner packs being distributed to new dwellings. Such homeowner packs can educate occupiers on the European Sites, their sensitivities to

recreational pressure and they can promote the use of alternative recreational areas, in particular dog walking areas. Through the imposition of a condition, the precise content of the homeowner pack can be agreed, and it can also be ensured that it is issued. Comments from Natural England are before me which refer to the proposal's likely effects upon the European Sites, and they raise no objections.

18. Given all that is before me I am satisfied that, through the imposition of a condition, mitigation measures in the form of the supply of a homeowner pack would ensure that the effects of any recreational activities which would emerge from the proposed development would not have an adverse effect on the integrity of the SAC, the SPA or the Ramsar Site. The proposal therefore complies with Policies SP8 and DM44 of the LP which seek to protect and enhance biodiversity, protect sites of recognised importance, including by ensuring that adverse effects on internationally designated sites are avoided.

Other Matters

19. The proposed layout, with the dwelling centralised within the appeal site, would ensure that the new house would be well-separated from other houses. As a result, the proposed development would not harmfully restrict outlook from those properties, nor unacceptably reduce light received by them. Together, the layout and the adopted window and door positioning would ensure a combination of adequate separation and angled views so that the privacy of neighbouring occupiers would not be infringed upon. These factors would also serve to ensure that the prospective occupiers of the proposed dwelling would benefit from acceptable living conditions.
20. The demolition and construction phase of the development would cause some disruption but, given the scale of the development proposed, it would not be of a nature nor duration significant enough to withhold permission.
21. It is part of the character of the local area that rows of traditionally designed properties are separated by garden. However, it is also quite typical for the gardens serving end-of-row properties to have outbuildings within them. The appeal site provides an example of this, and there are others off Dalton Road and nearby Barrowdale Road. Although the proposed dwelling would be a more significant development, given buildings amidst these gardens and at the end of the rows of properties in the area already feature, the proposal would not be an incongruous addition to the area.
22. Some trees would be removed as a result of the development. However, others would be retained, and a landscaping scheme is proposed as mitigation. Furthermore, the proposed dwelling is a well-designed one which exudes high-quality and which would be sympathetic to the traditional appearance of many of the properties in the area. Overall, the proposed development would represent good design, and its effects upon the character and appearance of the area would be acceptable.
23. With 3 in-plot spaces proposed, the development would be well-provided for in respect of vehicular parking. Any parking displacement resulting from the proposed access would be modest. The break in the boundary wall fronting onto Dalton Road to serve the access would be a wide one, and I have no reason to conclude visibility would be deficient. Consequently, the proposal would result in no effects prejudicial to highway safety.

24. The most up-to-date evidence before me sets out that the proposal is categorised as being low risk from all sources of flooding. The imposition of a condition can control final drainage proposals. Therefore, I have no firm grounds on which to conclude that the proposal would not be adequately drained nor result in an increase in flood risk. Neither do I have any substantive evidence that any unacceptable conflicts would arise with existing drainage infrastructure.
25. Finally, the evidence before me indicates to me that the Council cannot demonstrate 5 years' worth of housing supply and that the shortfall is a significant one. I am mindful of the content of the Framework which sets out the Government's objective of significantly boosting the supply of homes. Although the scheme's contribution to housing supply would be modest, given the circumstances, it would nevertheless be a valuable one and a clear benefit of the proposal.

Conditions

26. The Council has provided a schedule of suggested conditions that it considers would be appropriate. I have considered these conditions in the light of the tests for the imposition of conditions set out within the Framework and the content of the Planning Practice Guidance (the PPG). Having regard to the Framework and the PPG, and in the interests of clarity or precision and to avoid duplication, I have made some amendments to the conditions suggested to me.
27. Condition 1 sets out the standard time limitation. Condition 2 is necessary to ensure that the proposed development is carried out in accordance with the approved plans for the reason of certainty.
28. Policies DM30a and DM30b of the LP clearly set out the requirements for developments to be sustainably designed and constructed, with prescribed carbon emission reductions and water efficiency standards achieved. So that the development accords with these Policies, I have imposed conditions 3 and 10.
29. Conditions 4, 7 and 11 are each necessary in the interests of preserving the character and appearance of the area. Conditions 5 and 8 are together necessary in the interests of the conservation of biodiversity and the protection of species with my reasoning for condition 8 fully articulated in my second main issue. Condition 6 is necessary to ensure that the proposed development is adequately drained and condition 9 in the interests of highway safety. In the interests of health and safety I have imposed condition 13.
30. The Council has suggested removing a suite of permitted development rights from the property. The reasons given are brief and unconvincing. I am mindful of the advice contained within the PPG that the imprecise or unjustified removal of freedoms to carry out domestic alterations to properties will not meet the tests for imposing conditions. That said, it does strike me that the introduction of additional doors or windows to the proposed dwelling's north facing elevation could be both a likely adaptation and one which could unacceptably infringe upon privacy given the proximity of neighbouring gardens. Therefore, so that control can be exercised in such regards, I have imposed a condition (No 12) which removes the permitted development rights for the insertion of windows or doors within that elevation. Otherwise, the necessity to remove a host of other permitted development rights is not clear to me, and I have not done so.

Conclusion

31. The proposed development accords with the development plan as a whole, and there are no material considerations which indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
1524.P.11 A
1524.P.12 B
1524.P.13 B
1524.P.14 A
1524.P.15 A
1524.P.16
- 3) No development shall take place until a Sustainable Design Statement, including an Energy Carbon Statement, has been submitted to, and approved in writing by, the local planning authority. The submitted statements shall include details of all measures to be incorporated into the development to ensure that:
 - i) In the case of the development commencing before 1 January 2028, that a minimum 75% reduction in carbon emissions against Part L of the Building Regulations 2013 expressed as a % uplift of the dwelling's TER shall be achieved;
 - ii) In the case of the development commencing on or after 1 January 2028, that a 100% reduction (Net Zero) in carbon emissions associated with regulated energy against Part L of the Building Regulations 2013 expressed as a % uplift of the dwelling's TER shall be achieved.

The carbon reduction measures to be deployed shall adhere to the energy hierarchy set out within Policy DM30a of the Local Plan for Lancaster District 2020-2031 (Part Two).

Should the approved statements demonstrate the carbon emission reductions required under i) only, and the development is not commenced before 1 January 2028, then no development shall take place until updated statements have been submitted to the local planning authority which demonstrate that the carbon emission reductions required under ii) shall be met.

The development shall be carried out in accordance with the approved statements inclusive of any monitoring and evaluation measures therein.

- 4) The development hereby permitted shall be carried out in accordance with the submitted Arboricultural Impact Assessment (the AIA) by jon-oliver.com arboriculture, dated 17 November 2023, with all tree and hedgerow works and protection measures undertaken in accordance with the AIA. No site clearance, preparatory work or development shall take place until all trees and hedgerows identified for retention within the AIA have been protected in accordance with the details within the AIA. The protection measures shall be retained until the completion of the development works.
- 5) The development hereby permitted shall be carried out in accordance with the Updated Protected Species Risk Assessment by Simply Ecology, dated 24 April 2024, with the recommendations therein in respect of an ecological clerk of works oversight and site clearance work timings complied with.
- 6) No development other than the proposed garaging demolition shall take place until a drainage scheme has been submitted to, and approved in writing by, the local planning authority. The submitted drainage scheme shall:
 - i) Provide the details of foul water drainage management and disposal;
 - ii) Provide the details of surface water drainage management and disposal based on sustainable drainage principles; and
 - iii) Include a drainage management and maintenance regime.

The development shall be carried out, and thereafter managed and maintained, in accordance with the approved drainage scheme and all drainage management disposal measures and infrastructure shall have been completed before the dwelling hereby permitted is occupied.

- 7) No development above ground level shall take place until the following have been submitted to, and approved in writing by, the local planning authority.
 - i) A sample panel of the proposed stonework showing coursing, jointing and pointing;
 - ii) A sample of the proposed render finish;
 - iii) A sample of the proposed roof slate;
 - iv) A sample of the proposed quoins;
 - v) Details of the design and material finishes of the proposed windows and doors;
 - vi) Details of the design and material finishes of the proposed roof ridge, verge and eaves;
 - vii) Details of the design and material finishes of the proposed rainwater goods;
 - viii) Details of the design and material finishes of the proposed chimneys;

- ix) Details of the design, placement and material finish of all means of enclosure and boundary treatments to serve the development; and
- x) Details of the precise hard surfacing materials to form the 3 proposed parking spaces.

The development shall be carried out in accordance with the approved details and samples. The development shall not be occupied until all means of enclosure and boundary treatments, and the 3 hard surfaced parking spaces, have been installed/completed. The 3 parking spaces shall thereafter be kept available for the parking of vehicles.

- 8) The dwelling hereby permitted shall not be occupied until a homeowner pack has been distributed to/made available at the dwelling hereby permitted prior to its occupation. The content of the homeowner pack shall have first been submitted to, and approved in writing by, the local planning authority. The approved homeowner pack shall include details of the European Sites/designated ecology sites which can be affected by recreational pressure, the sensitivities of those sites to recreational pressure and promotional material of alternative areas for recreation, in particular dog walking areas.
- 9) The dwelling hereby permitted shall not be occupied until:
 - i) new dropped kerbs have been installed at the carriageway edge together with a vehicle cross-over constructed at the proposed access point identified on the approved plans; and
 - ii) the existing dropped kerbs at the existing site access and adjacent to the existing garaging have been reinstated to full kerb height.
- 10) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 11) The proposed planting scheme (trees and hedges) within the AIA shall be carried out in the first planting and seeding seasons following the completion of the development. In carrying out the planting scheme, all the planting, establishment and aftercare measures contained within it shall be complied with.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows or doors shall be constructed on the rear (north facing) elevation.
- 13) Should any unforeseen contamination be found during the course of demolition, or the construction of the development hereby permitted, it shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.