

Appeal Decision

Site visit made on 19 July 2023

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th August 2023

Appeal Ref: APP/A2335/D/23/3324080

15 Glen View Crescent, Heysham, Lancashire LA3 2QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J O'Donnell against the decision of Lancaster City Council.
 - The application Ref 23/00147/FUL, dated 8 February 2023, was refused by notice dated 6 April 2023.
 - The development proposed is raised decking area in garden.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the residents of 13 Glen View Crescent with regard to privacy and outlook.

Reasons

3. The property has had an external rear deck installed which extends across the full width of this dwelling and serves bi-fold doors which have replaced the original rear windows. This arrangement was the subject of a refused retrospective planning application. It is now proposed that the arrangement be amended by setting the nearest part of the decking away from the shared boundary fence with 13 Glen View Crescent by 478mm. In addition, this part of the decking would be reduced to 1291mm deep to enable continued access from the bi-fold doors. This narrower section would extend to 1850mm from the dividing fence. At that point, the decking would return to its existing depth. It is evident from the plans that originally there was a raised rear area adjacent to the opposite fence but this did not extend beyond about the centreline of the garden or close to the boundary with number 13.
 4. The original rear window would have allowed for some overlooking of the neighbouring garden. Furthermore, there is nothing before me to suggest that the change of that window to full-height glazed doors would require consent. Maintaining the current doors without a decking area would require some form of balustrade for safety reasons, possibly internally given the nature of the doors. Such an arrangement would be likely to add to the level of overlooking compared to the original layout and I have assumed this as the baseline position.
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5. The proposed revised narrow section of decking, set away from the fence, would prevent access to the area adjacent to the fence which currently allows for views, from adjacent to the fence, immediately downwards into the neighbouring garden and back towards the neighbouring windows. Residents stood in this set back position would still be extremely prominent from the neighbouring garden. Although the revision would direct residents further from the fence to the wider retained area of decking, it would still allow residents to stand on the decking at this high level, only half a metre from the boundary. Given this short distance from the fence, residents in this position would continue to have direct views of the neighbouring garden and would be extremely intrusive when viewed from below.
6. The revised arrangement would ensure that the full depth of the decking area would be in the region of 2m from the nearest neighbouring rear window but at a depth of over 2m. Residents in this location would have lesser potential for overlooking the neighbouring garden but they would have views back towards the neighbouring rear facing window. Higher boundary screening would add to the already high fence and would be likely to reduce evening sunlight to the neighbouring window and also further reduce the outlook from the garden.
7. Whilst this proposal represents a compromise that overcomes some of the worst impacts of the current arrangement, residents would retain access to a position that would allow for close and direct views of the neighbouring seating area from a high level. This would unacceptably reduce privacy and be extremely intrusive. Whilst the layout would encourage use of the wider area, it would not prohibit use of the narrower area. Furthermore, the proximity of the wider area would remain too close to the neighbouring property without adequate additional screening. As no such screening is proposed, it is not possible to fully assess its impact but it is not evident that this would address all concerns.
8. The decking area has been carried out to the highest of standards and no doubt improves the living conditions of the residents given the benefits for outside living and the improved access to the lower garden that it offers. My understanding is that the decking height has not significantly increased over the original raised area close to the other neighbouring boundary but that area and the new steps, have not been identified as a concern. The current and proposed design result in unacceptable harm to the living conditions of the residents of 13 Glen View Crescent with regard to privacy and outlook. The proposed alterations do not go far enough to adequately address the concerns raised. Even with the revised works, the decking area would conflict with the requirements of policy DM29ii of the Lancaster District Local Plan 2011-2031 (2020) which seeks to prevent significant detrimental impacts to amenity in relation to privacy and overlooking. As the policy accords with the amenity requirements of the *National Planning Policy Framework*, I afford it full weight.
9. Given my findings above, I dismiss the appeal.

Peter Eggleton
INSPECTOR