



Appeal Decision

Site visit made on 4 July 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/A2335/D/23/3320931

20 Hornby Terrace, Morecambe LA4 5QB

- 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 Andrew Swarbrick against the decision of Lancaster City Council.
 - The application Ref 22/01257/FUL, dated 11 October 2022, was refused by notice dated 31 January 2023.
 - The development is described as "construction of wooden raised decking area to rear of property. Decking extends from french doors which are level with the rear back door. The height of the decking is 900mm above the ground and is the same height as the original top step of the rear door. The decking area covers an area 3m2 by 5m2. at its largest point -L shaped floor plan. There is a wooden ballister to the outward edge of the decking with metal cable ballisters below the wooden top ballister. Wooden steps to the ground"
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. From my site visit and based on the evidence before me, the decking has been erected and therefore the development is retrospective. I have considered the appeal on this basis.

Main Issues

3. The main issues of the appeal are the effect of the development:
 - on the character and appearance of the area and whether the development preserves or enhances the Morecambe Conservation Area; and
 - on the living conditions of neighbouring properties, with particular regard to the loss of privacy to the rear gardens of No.19 and No.21 Hornby Terrace.

Reasons

Character and Appearance

4. The appeal site, No.19 Hornby Terrace relates to a mid-terraced property, located within Morecambe Conservation Area (MCA). The dwelling is of traditional construction, and there is a general uniformity to the principal elevations, which front onto Hornby Terrace. The rear elevations face towards the Cemetery and are separated from this by a private access road. Many of the rear elevations had been altered or extended, contributing to a greater

degree of variety to their architectural form than could be said of the front elevations. However, most of these alterations and extensions were constructed using materials similar to the host property and do not unduly detract from its traditional character.

5. The significance of the conservation area as a whole lies in the pattern of historic structures, road layouts and streetscapes which tell the story of Morecambe's growth from its origins as a small fishing village into a bustling and popular seaside resort of the nineteenth and twentieth centuries.
6. The significance of the conservation area in so far as it relates to the appeal site is the form and appearance as a row of late nineteenth century terraced houses, which represent a high-quality example of terraced housing from this period. To the front of the terrace, each property benefits from an attractive, detached allotment style garden. The Conservation Area Appraisal notes that these contribute to the attractive, mature open spaces found in this part of the conservation area. These front gardens are not affected by the decking area, which is located to the rear of the property.
7. There is a statutory duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 193 of the National Planning Policy Framework ('the Framework') makes it clear that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to the asset's conservation.
8. The appeal relates to the construction of an area of decking to the rear of the property, which has been installed across the full width of the property and level with the original back door and patio doors which are present in the rear elevation. The deck is of timber construction and forms an L-shape within the rectangularly shaped rear garden.
9. The position of the rear garden, off a private access road, close to a public cemetery and without any boundary treatment enclosing the rear garden from this viewpoint means that the development is visible, if only partially, within the surrounding area. However, along the boundary with No. 19, retractable screens have been installed, which sit prominently above the decking and are brightly coloured, this serves to increase the prominence of the overall development and is harmful to the character and appearance of the host property and surrounding area.
10. The decking is constructed using timber and is partially enclosed by a mixture of timber and metal cable railings, which retains some openness, rather than enclosing the structure entirely. However, by virtue of its height, position, and use of materials together with the installation of prominent retractable screens, in combination this results in a discordant form of development which fails to have regard to the traditional character of the host property or the surrounding area.
11. Whilst I acknowledge that access to the dwellings on Hornby Terrace is generally above ground level, necessitating either steps or a ramp to provide access, I observed that none of the properties in Hornby Terrace have a rear platform of a similar design or scale.

12. For the above reasons, I conclude that the development be harmful to the character and appearance of the area and therefore fails to preserve or enhance the character and appearance of the MCA. It conflicts with Policies DM29 and DM38 of the Development Management DPD (DMDPD). Amongst other things, these policies require development to contribute positively to the identity and character of the area through good design, having regard to local distinctiveness and the character of the surrounding built form.
13. The development also conflicts with Paragraphs 130 and 134 of the National Planning Policy Framework (the Framework) which seek to promote high quality design.
14. In failing to preserve the character and appearance of the MCA, I find that the development, in the words of the Framework, results in less than substantial harm to the significance of a designated heritage asset. Although I find that the harm in this particular case is minor. Nevertheless, in such circumstances, the Framework requires that the less than substantial harm should be weighed against the public benefits. In this instance, no public benefits have been put to me. Therefore, there are no public benefits in this instance that outweigh the less than substantial harm to the significance of the MCA.

Living Conditions

15. The properties on Hornby Terrace benefit from a detached garden area opposite the front of the property and a more private rear garden. There is vehicle access to both sides of the property and some of the rear gardens are used for parking, with many having outbuildings or other structures.
16. The decking extends the full width of the rear garden adjoining the boundaries with both 19 and 21 Hornby Terrace. It provides for direct access from the rear of the property from patio doors which have been installed into the appellants living room. By virtue of its position and height, there is overlooking into the neighbouring gardens.
17. Whilst I accept that due to the design of these dwellings, with access to both the front and rear doors to the properties being via steps, above ground level, that there is already a degree of overlooking which can occur. The two-storey extension to No.21, with its side facing windows further contributes to overlooking between these two properties. Nevertheless, the installation of a decked area provides an opportunity for the occupiers of No.20 to enjoy external spaces for longer periods of time, thereby increasing the amount of overlooking and loss of privacy which can occur.
18. By way of mitigation, a retractable screen has been installed along the boundary between No.19 and No.20. Whilst this could be considered to satisfactorily mitigate harm by way of loss of privacy and overlooking into the garden of No.19, as discussed above, these screens are brightly coloured and cause harm to the character and appearance of the host property and the wider conservation area. Therefore, the use of these as form of mitigation is not acceptable, in this instance.
19. On the opposite boundary, there is no such boundary treatment and therefore the development overlooks rear garden of No.21. This results in loss of privacy to their rear garden. Whilst I have had regard to the letter of support submitted by the occupiers of No.21, and the presence of some existing trellis

and planting, this is not sufficient to mitigate the harm caused by the height and position of the decking area. Therefore, in the absence of any appropriate scheme of mitigation, I find that the development results in an unacceptable level of harm to the living conditions of this property.

20. Consequently, I therefore conclude that the development causes unacceptable harm to the living conditions of neighbouring properties, with particular regard to the loss of privacy to the rear gardens of No.19 and No.21 Hornby Terrace. This conflicts with Policy DM29 of the DMDPD which requires, amongst other things, for development to ensure that there is no significant detrimental impact to amenity in relation to privacy and overlooking.

Other Matters

21. Whilst I have had regard to the letters of support submitted by neighbouring residents, including the current occupiers of No.21 Hornby Terrace, this does not alter my findings.
22. I have also had regard to the appellant's case that the decking constitutes a temporary structure. With regard to its temporary nature, case law has held there is no single conclusive answer as to what constitutes a building operation but the size of the building, the degree of permanence and the degree of physical attachment to the ground are relevant tests. Nevertheless, an application for planning permission has been made and I have considered the appeal on this basis.

Conclusion

23. For the reasons given, the development does not accord with the development plan when taken as a whole. There are no material considerations, including the Framework that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR