

Appeal Decision

Site visit made on 2 September 2024

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/A2335/W/24/3342663

Park View Residential Home, 95 Regent Road, Morecambe, Lancashire LA3 1AF

- 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 Dalal against the decision of Lancaster City Council.
 - The application Ref is 23/01100/FUL.
 - The development is described as erection of outdoor decking and wheelchair access ramp.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development originally given to the scheme in the appellant's initial planning application form. I have noted that the Council describe the scheme as being retrospective. It was clear to me at the time of my visit to the site that the outdoor decking and access ramp appeared to have been constructed broadly in accordance with the submitted plans. I have determined the appeal accordingly.
3. The Council's reason for refusal cites Section 12 (Achieving well-designed places) of the National Planning Policy Framework (the Framework), whilst the officer report also refers to paragraph 130¹. Although neither the decision notice nor the officer report explicitly state which version of the Framework is relied upon, the decision date of 13 December 2023 pre-dates the publication date of the current version of the Framework². Thus, it is reasonable to assume that the Council's references to the Framework relate to its then current September 2023 iteration.
4. Other than changes to paragraph numbers, the wording of paragraph 135³ does not materially differ from that of paragraph 130. I have therefore determined the appeal accordingly and in so doing, I am satisfied that neither party would be prejudiced. Unless otherwise stated, further references to the Framework herein are to the December 2023 version.

¹ Now paragraph 135 of the Framework (December 2023)

² published on 18 December 2023 and updated with correction on 19 December 2023

³ Was paragraph 130 of the September 2023 Framework

Main Issue

5. The main issue is the effect of the outdoor decking and wheelchair access ramp on the living conditions of occupiers of 97 Regent Drive, with particular regard to privacy.

Reasons

6. The yard area at the rear of the appeal property is enclosed by substantial brick walls. The ground level within the yard itself lies below the internal floor level of the appeal property such that there are two steps up on to the decking from it, whilst the deck provides a largely level access from within the building to the outside space.
7. The access ramp slopes gently and turns the corner of the building, running between its side elevation and the boundary wall with 97 Regent Drive. There is a small, level, turning platform within the ramp directly adjacent to the wall between Nos 95 and 97.
8. The height level of the deck relative to the wall between Nos 95 and 97 is such that the wall's effective height is substantially reduced. Views between the appeal property and No. 97 above the wall are inevitable and unavoidable for users of the ramp and deck as a consequence. From these viewpoints, there is direct and unobstructed intervisibility between and over not just the rear yard area of No 97, but also into a ground floor window on that property's side elevation. At such close quarters, the effect is to significantly undermine the sense of privacy that would previously have existed within the rear yard at No. 97. There are other windows at first and second floor levels on that elevation, but they are not affected to the same, harmful, degree.
9. I am conscious that in the context of terraced residential streets where properties have two storey outriggers, some intervisibility between properties is inevitable. However, the deck and access ramp introduces elevated views towards and across both the rear yard and side window of No. 97 at close quarters. It may not be the intention of users of either the deck or the ramp to consciously or deliberately look across towards No. 97 but I have no doubt that that would occur.
10. This would, I conclude, result in unacceptable levels of overlooking and a loss of privacy to occupiers of No. 97. This, in turn, is sufficient to cause material harm to the living conditions of occupiers of that property. Policy DM29 of the '*Local Plan for Lancaster District Adoption Version*⁴ (the LP) sets out some key design principles for new development, expecting it to ensure that there is no significant detrimental impact to amenity in terms of, inter alia, privacy and overlooking. For the reasons I have set out above, I conclude that the appeal scheme results in such significant detrimental impact to amenity in these terms and is thus contrary to LP Policy DM29.
11. LP Policy DM29(VI), in seeking to ensure that new development is as sustainable as possible, also expects development to be accessible to all sectors of the community including for people with disabilities. The appeal

⁴ 'A Local Plan for Lancaster District 2011-2013 Part Two: Review of the Development Management DPD Adoption Version' July 2020

property provides supported living for its residents, and it is stated that the decking and access ramp is intended to solely provide emergency level access to and from the building. This would be consistent with the aims of LP Policy DM29(VI).

12. However, whilst it is stated that the decking and ramp are intended to provide solely for emergency level access, their extent and layout is such to be of sufficient size to facilitate wider use than purely for emergency purposes. With no realistic means before me of ensuring that it was only used as such it could be used for sitting out by residents and staff, in which event the extent of overlooking and loss of privacy would be greater. Even if that were not to be the case, it has not been demonstrated that the materially harmful overlooking and loss of privacy that I have identified above as arising from its access and egress function could be adequately or appropriately reduced or avoided.
13. Thus, whilst I have given the matters of providing external access to outside space and the provision of emergency access and egress particularly careful consideration, it has not been demonstrated that the harm that has arisen could be appropriately mitigated. Although the benefits of providing such access, with the perhaps unintended benefit of also providing accessible outdoor space for residents of the appeal property, align with the provisions of LP Policy DM29(VI) these are not sufficient to outweigh the overall harm to living conditions that I have identified. The appeal scheme does not therefore achieve the high quality, sustainable form of development that makes a positive contribution to the surrounding area that LP Policy DM29, when taken as a whole, seeks to achieve.

Conclusion

14. I have given the matters of providing external access to outside space and the provision of emergency access and egress particularly careful consideration and had due regard to the Public Sector Equality Duty (PSED) set out under section 149 of the Equality Act 2010. However, it has not been demonstrated that the harm that has arisen could be appropriately mitigated. As such, that harm outweighs the benefits of providing such access / egress and outdoor space and I therefore conclude that it is proportionate and necessary to dismiss the appeal.
15. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR