

# Appeal Decision

Site visit made on 3 September 2024

**by Sarah Manchester BSc MSc PhD MEnvSc**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 September 2024**

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**Appeal Ref: APP/J2373/D/24/3346049**

**3 Moorland Court, Blackpool FY4 4ZE**

- 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 Dr Victor Utomi against the decision of Blackpool Council.
  - The application Ref is 24/0099.
  - The development proposed is external alterations to ground floor front elevation and use of garage as altered as ancillary living space. Removal of front landscaping and creation of extended hardstanding to form 3rd parking space.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Planning permission (Ref 15/0420) was originally granted in October 2016 for the erection of 118 dwellings with associated garages, landscaping, highway works and new access off Preston New Road. Conditions imposed on the permission included No 11 hard and soft landscaping and No 12 retention of garages for car parking.
3. The appeal development has already been carried out and the application form indicates that the work was completed on 30 May 2022. At the time of my visit, I observed that the submitted plans appear to correspond to the development that has been implemented. I have therefore determined the appeal on the basis that permission is sought to retain the development.

## Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

## Reasons

5. No 3 is a detached 2-storey dwelling with, as built, an integral garage and frontage parking for 2 vehicles. It is part of a short row of closely spaced dwellings on a cul-de-sac in a modern residential estate. The area is characterised by substantially similar properties set back from the road behind open frontages with hardstanding car parking and soft landscaping including

amenity grass, ornamental shrubs and immature trees. The similar design and palette of materials, and the consistent frontage treatments, results in a coherent and harmonious townscape.

6. The garage door has been removed and replaced by a wall finished in brick and a large ground floor window. The design and external materials match the appeal property. Therefore, the converted garage is not discordant or incongruous in the street scene.
7. The hardstanding car parking space replaces an area of soft landscaping measuring roughly 6.1m by 3.9m, and it appears larger than each of the original frontage parking spaces. The hard surfaced car parking across the width of the principal elevation is stark and unsympathetic to the dwelling. The open and austere hard frontage contrasts unfavourably with the former landscape planting, which interrupted and softened the built environment. The increased dominance of the hardstanding and frontage parking is detrimental to the character and appearance of the street scene. The development does not contribute positively to local distinctiveness or sense of place.
8. The appellant considers that the Council cannot control whether or not he removes the soft landscaping to the front of his property. In this regard, he indicates that more than 5 years has passed since the landscaping works were carried out such that clause c) of condition 11 of the permission no longer applies. However, that is a standard clause that refers specifically to trees and shrubs that fail within 5 years of planting. It does not appear to relate more generally to the retention of the approved hard and soft landscaped areas, the latter which, even without trees or shrubs, soften the hard built environment.
9. I have not been provided with the decision notice or details of the discharge of conditions. However, condition 11 specifies not only hard and soft landscaping and levelling works drawings, but also the Engineering Appraisal Drawing contained within the FRA. Moreover, condition 11 is necessary both in the interests of visual amenity and to ensure soakaways during heavy rainfall. Even if the trees and shrubs can be removed due to the elapse of time, it has not been demonstrated that the former green infrastructure frontage could similarly be removed without permission. Irrespective, this is not an appeal against conditions imposed on the planning permission.
10. I understand that the appellant considers that the hardstanding is permitted under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) because the planning permission does not remove the permitted development (PD) rights in this regard. Even so, he has applied for planning permission and I have determined the appeal on that basis. Nevertheless, I am mindful that PD rights can provide a fallback position and thereby be a material consideration in the making of planning decisions. In this case, it has not been demonstrated that the large area of tarmac meets the relevant requirements of the GPDO. Moreover, the evidence suggests that the parking space was only created to compensate for the loss of the garage space in order to facilitate the garage conversion. Consequently, even if the tarmac hardstanding would be PD, there is little evidence that there would have been a realistic likelihood or a real prospect of it being constructed in the absence of the garage conversion. On this basis, PD rights in relation to hard surfacing carry limited weight in favour of the scheme.

11. The Council also considers that, in the absence of any compelling justification, allowing the development would make it difficult to refuse similar future applications, resulting in cumulative detrimental effects on visual amenity, highway safety and congestion and flood risk. In this regard, my attention has been drawn to similar proposals that have recently been refused permission including on appeal. As such, the Council's concerns that the appeal scheme could set a precedent do not appear unfounded.
12. Therefore, I conclude that the development harms the character and appearance of the area. It would also set a precedent, contributing to cumulative adverse impacts on visual amenity, amongst other matters. It conflicts with Policies CS6 and CS7 of Blackpool Local Plan Part 1: Core Strategy (2012-2027) Adopted January 2016, Policies DM17, DM20, DM21, DM31, DM35 and DM41 of Blackpool Local Plan Part 2: Site Allocations and Development Management Policies Adopted February 2023. These require, among other things, that development is well designed, with attractive spaces that complement built form and that are not dominated by frontage parking, with well integrated car parking in accordance with parking standards and green infrastructure to screen and soften hard surfaces, avoid loss of biodiversity and reduce areas of impermeable surfaces. It also conflicts with the aims of the Council's Extending Your Home Supplementary Planning Document Adopted November 2007, and the design aims of the National Planning Policy Framework (the Framework).

### **Other Matters**

13. The appellant is an NHS Doctor who uses the converted garage to work from home, in accordance with the NHS guidance in relation to discreet telephone conversations and equipment security. He refers to his vital health service work, but little evidence has been provided in this regard or to demonstrate that similar benefits could not be achieved by alternate solutions at this property without the harm that I have found. I am also mindful that the development would not cease if the appellant's circumstances changed or he moved. Therefore, the personal circumstances do not provide a compelling justification for the development.
14. I note that the appellant considers 2 frontage parking spaces would be sufficient for a property of this size and Kent County Council no longer require compensatory parking for the loss of garages. However, condition 12 of the planning permission requires that the garage remains available for parking. The replacement parking provision is necessary to meet the parking standards for a property of this size. The highway and traffic consultee is of the opinion that the loss of a parking space would unacceptably result in parking in a highway of limited width. In this regard, Moorland Court is a single access cul-de-sac with no footways or obvious accommodation for on street parking.
15. Irrespective of whether or not the integral garage space could be used to park the appellant's vehicles, and that some people choose not to use garages for parking overnight, it has not been robustly demonstrated that the garage could not be used for parking or that the parking standards should not apply to this property or in this area. As the garage conversion would not be demonstrably acceptable in the absence of replacement parking provision, I have not issued a split decision.

16. The appellant has suggested that a planning condition could be imposed requiring a drain at the end of the driveway to ensure surface water does not run off onto the highway. Paragraph 56 of the Framework advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In this case, I have not been provided with details of estate or driveway drainage and it has not been demonstrated that the driveway runoff could be directed to a green infrastructure soakaway or how it would otherwise be drained. No suggested condition wording has been provided and I cannot be certain that any such condition would meet the tests in the Framework. It would not in any case mitigate the adverse effect of the development on visual amenity.

### **Conclusion**

17. For the reasons set out above, I conclude that the garage conversion is acceptable but the extended hardstanding frontage harms the character and appearance of the area. The appeal scheme conflicts with the development plan and there are no material considerations, including the appellant's personal circumstances and permitted development rights, that would outweigh that harm.
18. Therefore, I conclude that the appeal is dismissed.

*Sarah Manchester*

INSPECTOR