
Appeal Decision

Site visit made on 23 October 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2024

Appeal Ref: APP/P1425/D/24/3347371

72 Katherine Way, Seaford, East Sussex BN25 2XF

- 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 and Mrs Bishop against the decision of Lewes District Council.
 - The application Ref is LW/24/0084.
 - The development proposed is timber decking and associated landscaping at the existing rear garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description on the decision notice above for clarity and removed words not relating to acts of development.
3. The application form confirms that the development has started, and I was able to see this during my site visit.

Main Issue

4. The main issue is the effect of the appeal development on the living conditions of neighbouring occupiers at 137 and 139 Princess Drive.

Reasons

5. The appeal site includes a domestic dwelling on a steep slope, with a rear garden falling away from the house. Beyond the rear boundary are residential properties at 137 and 139 Princess Drive (No 137 and No 139); both are on lower ground than the appeal site. Houses on Katherine Way and Princess Drive are laid out in back-to-back fashion.
6. The appeal development includes a level platform projecting outward from the sloping surface of the appeal site garden. It is enclosed on one side by an independent boundary fence, on the other by a slatted rail, and at the rear by a slatted enclosure which is some 1.5m tall and made in a 'hit-and-miss' style, meaning it is possible to see both over and through it.
7. Despite the presence of nearby boundary fences and greenery, the elevated position of the appeal development allows direct and comprehensive overlooking over a short distance of the garden of No 137, partial overlooking of the garden of No 139, and direct lines of sight into the rear windows and doors of Nos 137 and 139. The appeal development is prominent above the height of the rear boundary fence, and the presence of people standing

towards the rear of the platform will be striking when seen from Nos 137 and 139. As a result of the above, domestic and social activity on the platform has significant potential to be intrusive. In all, the development results in a significant erosion of privacy, exacerbated by its visual prominence from Nos 137 and 139, and also results in significant potential for disturbance.

8. Nos 137 and 139 are already overlooked by the rear windows, patio, and garden at the appeal site, but the appeal development brings the point of overlooking significantly and harmfully closer, creating a steeper, more comprehensive angle of vision. I appreciate that the platform has been created to take advantage of direct sunlight from which other parts of the garden benefit less, but that increases the likelihood of regular use, particularly during good weather which is when occupiers of Nos 137 and 139 are most likely to use their own gardens and/or have rear doors and windows open.
9. Whilst a taller, more opaque means of enclosure or other structure erected at the edge of the platform may prevent overlooking, that would result in a materially different development to that before me, and one which has not been subject to public consultation. For me to grant planning permission subject to a condition requiring such an addition is not appropriate, therefore. There is space to the very rear of the appeal site where a planting scheme could be created, but I have no details of any such scheme and no evidence therefore that it would be reliable in preventing overlooking.
10. My attention has been drawn to permission for decking at 68 Katherine Way and the presence of a raised summer house at 74. The reference number provided for the former suggests that permission was granted some twenty years ago and not, therefore, against current policies, whilst I have no evidence that the works at No 74 were approved. In both cases, I have not been provided with any details as to why the development is comparable to the appeal development, and do not consider either to set a precedent for this appeal, therefore.
11. For the reasons set out above, the development harms the living conditions of neighbouring occupiers at 137 and 139 Princess Drive, contrary to Policies DM25 and DM28 of the Lewes District Local Plan where they require no unacceptable adverse impacts on the amenities of neighbouring properties, including by overlooking. It is also contrary to Policy SEA2 of the Seaford Neighbourhood Plan where it requires design to have regard for topography.

Other Matters

12. Whether negotiation between the appellant and the Council could have, or may yet, overcome the reasons for refusal is not a matter before me. I have made my determination on the merits of the scheme as submitted.

Conclusion

13. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is dismissed, therefore.

A Knight

INSPECTOR