



## Appeal Decision

Site visit made on 11 February 2025

by **Sarah Manchester BSc MSc PhD MEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

**Appeal Ref: APP/K0940/D/24/3354681**

**Lane Cottage, Warcop, Appleby-in-Westmorland, Cumbria CA16 6PF**

- 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 Alison Lowndes against the decision of Westmorland and Furness Council.
- The application Ref is 2024/1597/FPA.
- The development proposed is installation of raised terrace to south side of dwelling, accessed by wooden external stairs.

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposal on the living conditions of the neighbouring residential occupiers of 1 and 2 Brookside, with particular regard to overlooking and loss of privacy.

### Reasons

3. Lane Cottage is a detached 2-storey dwelling finished in sandstone with a pitched slate roof. It is set back from the road to the rear of Nos 1 and 2 Brookside. Its principal elevation faces across the rear garden of White Cottage and its blank rear elevation faces across the rears of the traditional terrace of which Nos 1 and 2 form part. Lane Cottage has a single storey extension to its south gable end elevation, this being narrowly separated from outhouses, and the gable end of the neighbouring property Fern Lea, by a shared pedestrian access.
4. The proposed timber terrace would be elevated around 2.8m above ground level and attached to the south elevation of the dwelling over the single storey kitchen extension. The plans show the terrace deck would be roughly 3.7m wide and less than 1.5m deep, with timber wooden railings to around 1m height. It would be accessed via a spiral wooden staircase and a long wooden walkway that would span across the pedestrian access between Lane Cottage and Fern Lea.
5. By virtue of its siting and elevation, the proposal would allow overlooking into the neighbours' rear gardens and towards the rears of the terrace. While the rear first floor windows in the terrace look over the rear gardens, the proposal would result in closer and direct overlooking of the gardens of Nos 1 and 2, and for longer durations. This would result in a significant loss of privacy to the neighbours.
6. The appellant has expressed her desire for private space so that she could sit in the sun or look at the stars, and she does not intend to overlook the neighbours. However, there could be no guarantee that future occupiers would use the terrace in the same way. Moreover, persons on the terrace would be readily visible and

audible to the neighbours in their gardens and their dwellings. Therefore, irrespective of the appellant's intentions, the neighbouring residential occupiers would perceive the proposal as a significant loss of privacy such as would be detrimental to their residential amenity.

7. Therefore, I conclude that the proposal would harm the living conditions of the neighbouring residential occupiers, with regard to overlooking and privacy. It would conflict with the aims of policy DEV5 of the Eden Local Plan 2014-2032 in relation to protecting the amenity of existing residents. It would also conflict with the residential amenity aims of the National Planning Policy Framework.

### **Other Matters**

8. Lane Cottage does not have any private outdoor space. When she bought the property, the appellant understood that the neighbours would sell her the land where they site their shed in order that she could construct a sun deck. The neighbours' subsequent decision not to sell will undoubtedly have been a disappointment and her desire for outdoor space is understandable. Nevertheless, Lane Cottage is in a relatively secluded rural location and there is little evidence that it fails to provide an adequate standard of living conditions.
9. The evidence indicates that 1 Brookside is being renovated and will be a rental property and No 2 is used at weekends by people who have their primary residence elsewhere. Even so, people who rent properties or occupy them on a part-time basis are still entitled to privacy. There could be no guarantee that the neighbouring properties would not be permanently occupied in future. The current occupancy arrangements of Nos 1 and 2 do not weigh in favour of the scheme.
10. The appellant wants solid balustrades and not timber spindles and posts as illustrated on the plans. I have considered whether the harm could be mitigated by the imposition of a planning condition in this regard. The scheme was not refused on grounds relating to its visual impact, but the Council's officer report notes that the proposal would be prominent and it might detract from the visual harmony of the area. In the absence of amended plans that illustrate an alternative design, I cannot be certain that solid balustrades would protect the neighbours' privacy without harm to the character and appearance of the area. Therefore, I am not satisfied that this is a matter that could be addressed by planning condition.

### **Conclusion**

11. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
12. Therefore, I conclude that the appeal should be dismissed.

*Sarah Manchester*

INSPECTOR