
Appeal Decision

Site visit made on 31 January 2017

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: Friday, 24 February 2017

Appeal Ref: APP/X4725/D/16/3165835

10 Pugneys Avenue, Crigglestone, Wakefield, West Yorkshire WF4 3FT

- 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 Laurie Smith-Swain against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/02153/FUL, dated 29 August 2016, was refused by notice dated 23 November 2016.
 - The development proposed is a raised platform at the rear of a domestic dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. I note from the planning application and my observations on site that the application is retrospective. The raised platform has been erected and I have determined the appeal on that basis.
3. I also understand that during the planning application process an amended scheme was submitted to the local planning authority (LPA) for their consideration. However, that amendment was subsequently withdrawn and the scheme was therefore assessed as originally submitted and built.

Main Issue

4. The main issue is the effect on the living conditions of adjoining residents with particular reference to privacy.

Reasons

5. The appeal site comprises a three storey semi-detached newly constructed house located in a modern residential area of Crigglestone. A raised platform with associated steps and balustrade has been erected to the rear of the property immediately adjacent to the boundary with the neighbouring property, No 8 Pugneys Avenue. I observed on site that the raised platform is currently used as an outdoor seating area.
 6. The boundary between the host property and No 8 comprises a close boarded timber fence approximately 1.8 metres high. However, as a consequence of the height of the raised platform the fence provides little screening, allowing close, direct and unobstructed overlooking from the platform into the neighbour's rear garden and glazed rear double doors serving their living
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accommodation which are situated within approximately one metre of the boundary. Indeed, from the platform it is quite possible to look straight through into the ground floor living accommodation of the neighbouring property as a consequence of its internal arrangements.

7. I observed on site that it is possible to overlook the rear garden of No 8 from the ground, first and second floor rear windows of No 10, therefore restricting the privacy of the occupants. However, overlooking would very much be exacerbated by the raised platform which allows very direct intrusion at close quarters.
8. Increasing the height of the adjacent boundary fence could mitigate the overlooking. However, due to the proximity to the rear habitable room windows of No 8 I consider that in order to provide adequate mitigation it would be of a height that, although unlikely to cause undue overshadowing, would nonetheless be likely to be prominent and overly dominant.
9. I am aware of other raised platforms and platforms in the locality, but from my observations on site and the evidence before me none appear to be of the scale of the appeal proposal with such a close and direct relationship with the windows of neighbouring habitable rooms. My attention has also been drawn to other high fences between different properties in the vicinity of the site and elsewhere on the housing estate. However, the evidence before me does not demonstrate that there are circumstances elsewhere where a high fence as would be required as mitigation in this case is situated in such a prominent and dominant location in relation to windows serving the habitable rooms of neighbouring properties. In any case I have determined the current appeal on its own merits.
10. I have also taken account of the appellant's evidence with respect to overlooking throughout the housing estate, including from the public realm into habitable rooms. This includes evidence in relation to the existing conditions at the host property and immediate neighbours. However, the passive nature of potential overlooking from pedestrians, shared open space and driveways is very different from the potential direct and intrusive overlooking that may occur between an outdoor raised platform in a residential garden and adjacent habitable room windows.
11. The LPA's concerns with respect to the appearance of the development are not significant enough to have warranted a refusal of planning permission on those grounds. Therefore, the matter of appearance has not been determinative in this appeal.
12. I therefore conclude that the raised platform has a harmful effect on the living conditions of adjoining residents with particular reference to privacy. As such it is contrary to the amenity provisions of Policies D9 and D10 of the Development Policies Document March 2009 and guidance in the Residential Design Guide November 1996.

Conclusion

13. For the reasons given above and taking into account other matters raised I conclude that the appeal should be dismissed.

A A Phillips INSPECTOR