
Appeal Decision

Site visit made on 18 July 2017

by Darren Hendley BA(Hons) MA MRTPI

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

Decision date: 11th August 2017

Appeal Ref: APP/W4705/D/17/3172394
17 Dene Bank, Bingley BD16 4AR

- 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 Kevin Rurup against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 17/00319/HOU, dated 21 January 2017, was refused by notice dated 17 March 2017.
 - The development proposed is an elevated wood deck over a rockery.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council consider that the submitted plans provide inaccurate information that does not allow for the proper consideration of the proposal on the living conditions of the occupiers of adjoining properties. Following my site visit, I am however satisfied that although the plans are hand-drawn and show the scale of the proposal with annotated measurements, they do clearly show its height and form, and I have continued to determine the appeal on this basis.
3. On 18 July 2017, the Council adopted the Local Plan for the Bradford District Core Strategy Development Plan Document (Core Strategy). The Council has stated that 'Saved' Policy UR3 of the Replacement Unitary Development Plan for the Bradford District (2005) has been replaced, as is relevant to the second reason for refusal, by Strategic Core Policy SC9 of the Core Strategy. I shall consider the appeal accordingly.

Main Issue

4. The main issue is the effect on the living conditions on the occupiers of 19 Dene Bank and 45 Lady Lane by way of privacy.

Reasons

5. The rear garden of the appeal property contains an expansive area of rockery that extends from the boundary with No 45 to the rear of the garage. Land levels also sharply rise on the rockery, so its highest point is approximately 2.5m above the rest of the garden. The adjoining rear gardens of No 45 and No 19 are also set at markedly lower levels than the rockery. The boundary with No 45 nearest the rockery is defined by a close boarded fence that is

stepped in height to reflect the rising land levels. A coniferous hedge forms the rest of this boundary. The boundary with No 19 is defined by a fence and a hedge arrangement.

6. The proposal would result in a raised flat platform that would extend 3m over the rockery and at a height of approximately 1.6m. This would create an elevated structure that would enable direct overlooking to occur over the boundary enclosure into the rear gardens of Nos 45 and 19. Both these gardens at present benefit from a high degree of privacy and provide a pleasant outdoor area for their occupiers to enjoy. This would be significantly harmed by the level of overlooking that would result from the use of the proposal. The distance the proposal would be set off the boundaries would not significantly reduce the level of overlooking due to its heightened form. Although Nos 45 and 19 are at lower land levels than the appeal site, this only would serve to increase the sense of overlooking that would occur.
7. The appellant has drawn my attention to other householder development in the vicinity of the site which he considers have resulted in a significant loss of privacy. Whilst I am not aware of the particular circumstances of these cases it seems to me that privacy levels in the area have been maintained at a reasonable level. There would also be no significant effects on the light levels to the rear of No 45 due to the form of the proposal, but this would not address the issue of overlooking.
8. I also note comments made about how the Council dealt with the planning application and how the coniferous hedge with No 45 is maintained, although these are not matters for me to comment on in the context of this appeal and I have dealt with the appeal on the basis of the plans and the relevant considerations before me. I appreciate that the rockery may be difficult to maintain due to the steep gradients although the benefits would be personal to the appellant and not outweigh the harm that would arise. None of these matters alter my conclusions.
9. I conclude that the proposal would result in an unacceptable effect on the living conditions on the occupiers of 19 Dene Bank and 45 Lady Lane by way of loss of privacy. It would not comply with Strategic Core Policy SC9 of the Core Strategy as far as in broad terms, it seeks to protect the living conditions of neighbouring properties by stating that development proposals should be appropriate to their local context. I also conclude that it would not comply with the Local Development Framework for Bradford Householder Supplementary Planning Document (2012) which states that raised areas of decking should be avoided if they would directly overlook the private garden of a neighbouring property.

Conclusion

10. I conclude the appeal should be dismissed.

Darren Hendley

INSPECTOR