



Appeal Decision

Site Visit made on 2 November 2021

by J Hunter BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2021

Appeal Ref: APP/W4705/D/21/3281626

5 Wendron Way, Bradford BD10 8TW

- 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 Mrs Aysha Alam Adeel against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 21/02248/HOU, dated 26 April 2021, was refused by notice dated 29 July 2021.
 - The development proposed is described as timber decking built above an existing patio and part of the timber decking and supportive structure exceeds 300mm from ground as the property is on a slope.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has already taken place and consequently I am considering this proposal retrospectively.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupiers of neighbouring property no 7 Wendron Way with particular reference to privacy.

Reasons

4. The appeal property is a substantial detached property built in a hillside location within a predominantly residential area.
5. Due to the topography of the land the appeal property and its rear garden area are at a higher level than the properties to the rear, particularly no. 7 Wendron Way, which has first floor windows approximately 10 metres from the decking area. The effect of the topography, design of the properties and proximity means that there is some level of overlooking between the properties when standing in most parts of the upper portion of host property's rear garden.
6. The development that is the subject of this appeal is a raised timber decking area located immediately adjacent to the rear elevation of the host property. The decking is approximately 5.5m x 4.1m and has been constructed over the top of a pre-existing patio area.
7. Whilst it is not possible for me to assess the impact that the previous patio may have had on the living conditions of neighbouring residents, based on the

information provided and from what I saw on site the decking is raised from the ground level by between 0.3m and 0.7m (accounting for the slope). The resulting effect is that users of the decking area would face directly toward the first floor windows of no. 7 Wendron Way, at a distance of around 10m thus affording them with unobstructed views into habitable rooms at a relatively close distance. I consider that this would result in an unacceptable level of overlooking which would have a significantly detrimental effect on the living conditions of the occupiers with reference to privacy.

8. In this regard the development would fail to accord with Policy DS5 of the Bradford Core Strategy Development Plan Document 2017 which seeks to ensure, amongst other things, that development proposals do not harm the amenity of existing or prospective users and residents.

Other Matters

9. I have considered the appellant's comments and I accept that due to the spatial relationships and topography of the site it is likely that there was already some level of overlooking. However, I consider that the presence of the decking would amplify the issue significantly because it would encourage users to congregate in a location that is directly opposite the upper floor windows of the adjacent property. I note that it is possible to look towards the same windows from inside the property however, as the host property sits at an oblique angle to no. 7, any overlooking from inside would have a lesser impact.
10. I am sympathetic to the appellant's situation in that they appear to have purchased the appeal property with the decking in place. I am also mindful of the fact that the removal of tree cover close to the boundary may have exacerbated the overlooking issue. Nonetheless, neither of these issues outweigh the harm I have found in relation to the main issue and any likely replanting would take time to become established and there would be no practical way of ensuring it would remain in perpetuity.

Conclusion

11. For the reasons set out above and taking into account all other matters raised, I conclude the appeal should be dismissed.

J Hunter

INSPECTOR

