



Appeal Decision

Site visit made on 23 November 2021

by Diane Cragg Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2021

Appeal Ref: APP/Z4718/D/21/3276561

2 Dover Cottages, Dover Lane, Holmfirth HD9 2SG

- 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 Robert Knowles against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/90067/W, dated 7 January 2021, was refused by notice dated 17 March 2021.
 - The development proposed is erection of raised decking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The raised decking has been implemented and I am considering the appeal retrospectively.
3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021 and I have had regard to it in reaching my decision.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the host property and the area;
 - the effect of the development on the living conditions of the neighbouring properties with particular regard to outlook, light, and privacy; and
 - whether the proposal is inappropriate development in the Green Belt.

Reasons

Character and appearance

5. The appeal site is a middle property in a terraced row. To the front there is a parking area with small enclosed outside space. To the rear the property looks towards a retaining wall set about 1.2 metres from the back wall of the house, with an intervening path providing rear access into the house and the other properties in the terrace row. The raised decking extends out from the rear of the property at first floor level with access from the first-floor bedroom window. It is supported by a wooden structure within the access area and the

retaining wall. Access to the deck can also be gained via an external removable wooden ladder.

6. The decking provides outside amenity space utilising challenging topography to the rear of the property, and in this context may be considered innovative. However, the siting and design of the raised decking breaks the rhythm of the rear elevation of the terrace row and because of its scale and form, projection and modern materials appears as a dominant and incongruous structure which does not respect the character of the cottages. Whilst the decking is not prominent in the wider context it overwhelms the limited rear space and is conspicuous when viewed from adjacent properties.
7. Consequently, the development harms the character and appearance of the area in conflict with Policy LP24 of the Kirklees Local Plan 2019 (the Local Plan), which promotes good design and Policy LP57 where it seeks to ensure that in the Green Belt regard is had to relevant design policies. It would also conflict with the Framework where it seeks to ensure development is sympathetic to local character, will function well and add to the overall quality of the area.

Living conditions

8. The deck extends from the rear wall of the property over the rear access and the retaining wall. Users of the deck area when standing or sitting in the space can look directly into the bedrooms and the ground floor living spaces of neighbouring domestic properties significantly undermining the privacy within these rooms. Further, the frame of the structure forms a roof over the rear access. As a result of its size and siting the decking area dominates the neighbouring windows at ground level, appears overbearing when viewed from the adjacent living room windows and reduces the limited light into these rooms.
9. The appellant suggests that side screening could be put in place to prevent any possibility of looking into the rooms of the adjacent properties. However, the introduction of side screens would further reduce light into next door windows, would be overbearing if designed to project sufficiently to prevent overlooking and would dominate the limited rear outlook of adjacent properties. This was clearly illustrated at my site visit by the positioning of the temporary screening to one side of the decking.
10. For these reasons, the raised decking is detrimental to the living conditions of the neighbouring properties with regard to outlook, light, and privacy contrary to Policy LP24 (b) of the Local Plan which requires development to provide a high standard of amenity for neighbouring occupiers. It would also be contrary to the Framework where it seeks to create places with a high standard of amenity for existing and future users.

Whether inappropriate development

11. The appeal site is located within the Green Belt. Paragraph 149 of the Framework sets out that buildings within the Green Belt are inappropriate subject to several exceptions. This includes exception 149(c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

12. The Council accepts that the existing dwelling has not been extended and considers that in terms of volume the proposed decking area does not have a detrimental impact. Nevertheless, concerns are raised that the decking area may not be within the domestic curtilage of the property and about the decking's design and impact on the openness of the Green Belt. However, paragraph 149(c) specifically refers to size and the Council accept that in these terms the decking is not detrimental.
13. I therefore conclude that the raised decking is not inappropriate development in the Green Belt within the terms of the Framework. As I have found that the building would not be inappropriate development in the Green Belt, I do not need to consider matters such as the openness of the Green Belt or very special circumstances.
14. In this respect, I have had regard to Policy LP57 of the Local Plan, but this does not lead me to a different conclusion in respect of paragraph 149(c) of the Framework.

Other Matters

15. I acknowledge that the decking provides external amenity space for the property. This is a private benefit and does not outweigh the harm I have identified.
16. The access to the deck from the bedroom may act as a fire exit but there is no evidence that such an exit is required. Even if a fire exit is needed for personal reasons or otherwise, it has not been shown that a fire exit cannot be achieved by other means.

Conclusion

17. Whilst I am satisfied that the proposal would not be inappropriate development within the Green Belt, for the reasons given above, I conclude that the proposal conflicts with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.

Diane Cragg

INSPECTOR