



Appeal Decision

Site visit made on 11 July 2022

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st July 2022

Appeal Ref: APP/N4720/D/22/3300659

13 Sherbrooke Avenue, Halton, Leeds LS15 0LR

- 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 T Hughes against the decision of Leeds City Council.
 - The application Ref 21/08000/FU, dated 24 September 2021, was refused by notice dated 18 March 2022.
 - The development proposed is new rear deck.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, the surface of the decking was in place but the glass balustrade and steps indicated on the drawings had yet to be installed. I have therefore determined the appeal on the basis that the proposal is part-retrospective.
3. The Council's officer report states that the existing rear extension is not built in accordance with the relevant planning permissions. However, that is not a matter for this appeal and I make no further comment on it.

Main Issues

4. The main issues are the effect of the development on i) the character and appearance of the host dwelling and surrounding area; and ii) upon the living conditions of residents of 19 Alexander Avenue with particular regard to privacy.

Reasons

Living conditions

5. The appeal site is a semi-detached dwelling which includes a ground floor extension at the rear. The rear garden is modest in length, as are those of the properties on Alexander Avenue backing onto the site, including No 19.
6. The raised decking which is the subject of this appeal extends some 2.4 metres out from the rear extension at approximately 1 metre above the ground. Whilst the section of boundary with 19 Alexander Avenue is relatively short in extent, I saw that the decking enables views of an intrusive nature over the boundary hedge into the large patio windows and parts of the rear garden of No 19. Residents of No 19 would also be aware of activity on the decking, which would increase their perception of being overlooked. Whilst I note that the appellant

would be willing to accept a condition for the proposed glass balustrades to be obscurely glazed, the limited height of the balustrades means that they could still be easily looked over, so it would not be an effective form of mitigation.

7. I have taken into account that the garden of 19 Alexander Avenue already experiences a degree of overlooking from the existing windows at the appeal site and other neighbouring properties. Nonetheless, it was clear to me that the decking facilitates closer and more open views of the garden and patio windows of No 19, as well as an increased perception of being overlooked.
8. I therefore conclude, on this issue, that the development would unacceptably harm the living conditions of residents of 19 Alexander Avenue due to loss of privacy. It is contrary to the amenity requirements of Policy P10 of the Leeds City Council Core Strategy (as amended 2019) (the CS) and saved Policy GP5 of the Leeds Unitary Development Plan Review (2006) (the UDP). The proposal would also be contrary to Policy HDG2 of the Council's Householder Design Guide 2012 (the SPD) with regards to protecting the amenity of neighbours in respect of overlooking.

Character and appearance

9. The decking is confined to the rear of the property where it is well concealed from public vantage points. Indeed, the Council's officer report acknowledges that it has no impact on the street scene. It is likely to be visible from some neighbouring properties, but even with the addition of glass balustrades, it would be a lightweight structure of limited height, mass, and footprint in relation to the existing dwelling and garden.
10. As such, I am content that the development would cause no demonstrable harm to the character or appearance of the dwelling and surrounding area. In this regard, the proposal complies with the design requirements of Policy P10 of the CS, saved Policies GP5 and BD6 of the UDP, and Policy HDG1 of the SPD.

Other Considerations

11. The appellant's Statement of Case refers to the benefits of the development, including the personal circumstances of a young family member. However, such personal circumstances will seldom outweigh general planning considerations. In this case, I have no convincing evidence before me that the development is the only way to access and enjoy the garden space at the property. I am also mindful that any planning permission would run with the property and therefore the development could be used by others, now and in the future, who do not have the same needs. Thus, the personal circumstances raised carry limited weight in favour of the appeal.

Conclusion

12. Although I have not found harm in terms of character and appearance, the appeal scheme results in conflict with the development plan taken as a whole and there are no other considerations of sufficient weight which indicate the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

A Caines

INSPECTOR