



Appeal Decision

Site visit made on 15 December 2022

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2023

Appeal Ref: APP/K0235/D/22/3310022

98 Village Road, Bromham, Bedfordshire MK43 8HU.

- 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 Miss Lisa Boggis against the decision of Bedford Borough Council.
 - The application 22/00836/S73A, dated 14 March 2022, was refused by notice dated 19 August 2022.
 - The development proposed is erection of raised timber deck around apple tree at end of garden.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would have a detrimental effect on the living conditions of present and future occupiers of No 100 Village Road as a result of overlooking.

Reasons

3. The appeal property, is one of a short terrace of four properties on a crescent off Village Road. No 98 and its immediate neighbours all have long, deep but narrow gardens extending to open countryside to the rear. The appellant has constructed the timber deck at an elevated level in the canopy of an apple tree near the foot of the garden and very close to the plot boundary with the neighbouring property No 100 Village Road.
4. As the deck has already been constructed I was able to climb up to the platform and fully assess the impact of the deck when in use.
5. I acknowledge that the likely intention is to take advantage of the open views to the south over fields and to benefit from the southerly aspect. However, the level of the platform at nearly 2 metres is such that anyone standing on it would have a full view of the garden to No 100 back towards the house.
6. I appreciate that there is often the possibility of intervisibility between houses and gardens particularly in terraced arrangements such as this. However, this deck in terms of its height and positioning creates additional overlooking at close quarters of the garden to No 100 and would unnecessarily destroy the privacy, particularly in the more secluded lower end of the garden.
7. It has been put to me that the current occupants of No 100 have not objected to the deck on these grounds. However, I must consider the living conditions for both

present and future occupiers and the fact that the present occupiers have not raised an objection does not mean that what is clearly a breach of privacy would be acceptable to others occupying No 100 in the future.

8. In terms of the impacts on other neighbouring gardens (Nos 94 and 96) because of the shrubbery and trees within the garden of the appeal site and adjacent there is not the degree of direct overlooking that there is towards No 100 and generally the house windows of the properties are sufficiently distant to the deck not to be the subject of overlooking.
9. I have considered whether additional screening or planting would be possible if I were to impose a condition. However, due to the height of the deck this would not be a satisfactory solution as a screen would simply make the structure more obtrusive at that height and any landscaping would take a considerable period of time before it established an effective screen to No 100's garden.
10. The *National Planning Policy Framework* (the Framework) at paragraph 130 requires that developments create places with a high standard of amenity for existing and future users and in these respects the proposal fails. Policy 32 of the *Bedford Borough Local Plan* (BBLP) reflects the Framework in requiring development to take into account the effects of disturbance to neighbours including overlooking, amongst other things. For the above reasons i.e. the positioning and height of the deck, the proposal would have an unacceptable impact on the living conditions for present and future occupiers of No 100 Village Road as a result of overlooking and loss of garden privacy.

Other Matters

11. I understand the appellant's wish to construct the deck to make effective use of her garden and notwithstanding the fact that the design of the deck is satisfactory, set as it is in the apple tree, this does not outweigh the harm to living conditions as a result of the proposal.

Conclusion

12. In reaching my decision I have had regard to the matters before me but, for the reasons above, the appeal should be dismissed.

P. D. Biggers

INSPECTOR