



Appeal Decision

Site visit made on 18 July 2023

by J Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st September 2023

Appeal Ref: APP/T2350/D/23/3322104

5 Whalley Road, Read, Burnley BB12 7PB

- 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 Shazad Anwar against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2023/0058, dated 13 January 2023, was refused by notice dated 21 February 2023.
 - The development proposed is the retention of unauthorised 1500mm timber fence to provide privacy and security to rear garage roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission has previously been granted for a balustrade of clear safety glass within a stainless steel framework (application reference 3/2021/1178). A timber fence has subsequently been erected and retrospective planning permission applied for which has then been refused. This forms the basis of this appeal.
3. Comments have been raised with regard to discrepancies on the plans provided. The drawings show the rear garage as being below the Juliette balcony railings on the rear elevation of 3 Whalley Road whereas it appeared to me that the garage roof is actually above the Juliette balcony railings. I note that the development appears to have been completed, however, it does not reflect the drawings. For clarity, I have assessed the appeal based on the drawings as determined by the Council.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of No. 3 Whalley Road, with particular regard to outlook and its overbearing effect.

Reasons

5. The appeal relates to a wooden fence to the rear of a mid-terraced property on Whalley Road. The fence would be located on the top of a garage roof which has been utilised as a private amenity space. The garage sits across the full rear of the appeal property. This proposal is located to the rear of the terraced row on Whalley Road and is only visible from properties on Whalley Road, the terraced row of Hambledon View and at glimpses when passing at either end of the alley between the two rows of terraces.

6. The rear of the properties on Whalley Road and Hambledon View do not have a defined character. Developments across this rear of the two terraced rows contain contrasting boundary treatments, outriggers and garages which all vary in their size and design.
7. The fencing is located on the roof of the rear garage, which has utilised the roof as a private amenity space. This garage is located on the boundary to No. 3 Whalley Road. The fencing is located slightly off the boundary.
8. Policy DMG1 of the Ribble Valley Core Strategy requires development proposals to be sympathetic to existing land uses in scale, massing and building materials. Furthermore, proposals should consider their relationship to surroundings and existing amenities. Policy DMH5 states that proposals on residential properties must accord with Policy DMG1.
9. No. 3 Whalley Road has three windows of significance to this appeal located directly adjacent to the proposed fencing. Two of these windows are located in the rear elevation, comprising of a ground floor which is utilised as a living room with a Juliette balcony and the lower ground floor, which is utilised as a kitchen and dining space. A third window is located in the outrigger extension, facing onto the fencing. This has previously been used as a bedroom, but at the time of my site visit was used as a storage room.
10. The height of the fencing would be slightly lower than the ground floor Juliette balcony and slightly lower than the window in the side elevation of No. 3 Whalley Road. This height difference is minimal. The proposed fencing stretches across the full length of the rear yard of the appeal site. Due to its position and length on top of the garage roof, this would create a negative outlook and a sense of enclosure for the occupiers of No. 3 Whalley Road.
11. Additionally, as the fencing would be situated on top of the existing rear garage, this would add additional height on top of the garage when viewed from the lower ground floor in the rear elevation of No. 3 Whalley Road. This would not only result in a negative outlook and a sense of enclosure from the lower ground floor, but unacceptably reduce the provision of daylight into this window position in particular. This is due to the height and length of the fencing and its material as a solid timber structure on top of the single storey garage when viewed from the lower ground floor and ground floor of No.3 Whalley Road. This would have an unacceptable overbearing effect on this room in particular.
12. No. 7 Whalley Road is located to the other side of the proposed fencing. No. 7 has a similar timber fence erected on the garage located in the rear of the property. This is similar in size to the fencing proposed in this appeal. There is no evidence before me which suggests if this fencing benefits from planning permission. However, as No. 5 and No. 7 Whalley Road have constructed garages in their full rear amenity space, they no longer have lower ground floor windows. The impact of the fencing is reduced as the patio doors are situated on the same level as the fencing and therefore this impact would be limited.
13. This proposal would have an unacceptable outlook and overbearing impact on the adjacent residential property of No. 3 Whalley Road and therefore would not comply with Policy DMG1 and DMH5 of the Ribble Valley Core Strategy.

Conclusion

14. I conclude that there would be an unacceptable level of harm on the living conditions in respect of outlook on the adjacent neighbouring occupiers of No.3 Whalley Road. As such, the proposal would not comply with the Ribble Valley Core Strategy Development Plan. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise. Therefore, I find that the appeal should be dismissed.

J Smith MRTPI

INSPECTOR