



Appeal Decision

Site visit made on 14 May 2024

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2024

Appeal Ref: APP/N4720/D/24/3338652

1 Strickland Close, Shadwell, Leeds LS17 8JY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Dunsmuir against the decision of Leeds City Council.
 - The application Ref is 23/05180/FU.
 - The development proposed is replacement decking to rear.
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Decision

1. The appeal is allowed and planning permission is granted for replacement decking to rear at 1 Strickland Close, Shadwell, Leeds LS17 8JY in accordance with the terms of the application Ref 23/05180/FU, and the plans submitted with it: Location Plan; Block Plan; Decking Plan; East Elevation; Balustrades and Supports Elevation.

Procedural Matters

2. I have shortened the description of development to focus only on the act of development proposed and I have assessed the appeal on the basis that the proposal is part retrospective.
3. During the course of the appeal, a Certificate of Lawful Development was granted confirming that the decking subject to this appeal is permitted development under the provisions of the Town and Country (General Permitted Development) (England) Order 2015 (as amended). The Council was given the opportunity to comment on the implications for this appeal, but no comments were offered.

Main Issue

4. The main issues in this appeal are i) the effect on the living conditions of the occupants of 19 Strickland Avenue and 3 Strickland Close with particular regard to privacy; and, ii) if any harm would occur, whether this is outweighed by permitted development considerations.

Reasons

5. The appeal property is a dormer bungalow on a corner plot. The rear garden is wider than it is deep and slopes slightly down towards the rear neighbour 19 Strickland Avenue (No 19) which has a similarly shallow rear garden. The garden boundaries are typically formed by a fence around 1.6-1.8m in height with various trees and shrubs.
6. The raised decking which is the subject of this appeal extends some 3.6 metres out from the main rear wall at approximately 1.2m above the ground. When

stood on the decking, I observed that there are some gaps in the boundary vegetation where views into the rear garden of No 19 are possible. These views are closer and more open than any views from the upper floor windows. It is also likely that the occupants of No 19 would be aware of activity on the decking, which would increase the perception of being overlooked. I therefore consider the decking to be harmful to the living conditions of the occupants of No 19.

7. The decking also extends close to the side boundary with 3 Strickland Close (No 3). However, No 3 has a rear extension which severely limits the available views into the garden of this property. As such, I do not consider that the decking gives rise to any undue loss of privacy in relation to No 3.
8. The harm I have identified to the living conditions of the occupants of 19 Strickland Avenue means that the proposal is contrary to Policy P10 of the Leeds City Council Core Strategy (as amended 2019); saved Policy GP5 of the Leeds Unitary Development Plan Review (2006); and Policy HDG2 of the Council's Householder Design Guide 2012, where they seek to protect the amenity of neighbours, including in respect of overlooking.
9. However, a Certificate of Lawful Development has now been issued by the Council confirming that the decking is permitted development. Consequently, I consider it would be unreasonable to withhold planning permission, notwithstanding my conclusion that the proposal is harmful, because it could be retained in any event. For the same reason, I have not imposed any conditions relating to further screening on the boundaries. No other conditions are necessary given that the development has already commenced and the drawings are listed in my formal decision.

Conclusion

10. Whilst I have found that the proposal conflicts with adopted planning policies, its status as permitted development signals a decision other than in accordance with the development plan and consequently, the appeal succeeds.

A Caines

INSPECTOR