

Appeal Decision

Site visit made on 15 July 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2024

Appeal Ref: APP/X4725/D/23/3334115

41 Beamshaw Way, Wakefield, West Yorkshire WF3 4FY

- 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 & Mrs Stones against the decision of Wakefield Council.
 - The application reference is 23/00126/FUL.
 - The development proposed is a garden room and decking area.
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Decision

1. The appeal is allowed and planning permission is granted for a garden room and decking area at 41 Beamshaw Way, Wakefield, West Yorkshire in accordance with the terms of the application, reference 23/00126/FUL, subject to the following conditions:
 - 1) The development hereby permitted relates to the following approved plans: 0554-01, 03 & 04.
 - 2) All glazing within the windows and doors in Elevation B (facing east) shall be obscure glazed within 3 months of this decision and shall thereafter be retained as such.

Main Issue

2. The main issue is the effect on the living conditions of the residents of 31 and 35 Riverdale Avenue with regard to outlook; and 43 Beamshaw Way and 31 Riverdale Avenue with regard to privacy.

Reasons

3. The proposal is for a garden room and raised decking. These are already in place. The decking is described by the council as being between 19cm and 23cm above ground level. The garden room, although designed to be 2.488m high, exceeds the height limit for such structures of 2.5m set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) because it has been raised above ground level by the height of the decking.
 4. The council suggest that the garden room harms the living conditions of the neighbouring residents to the rear at 31 and 35 Riverdale Avenue with regard to outlook. The building straddles the alignment of the boundary between 31
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and 35 Riverdale Avenue. This results in the building having a more limited impact on each. The building is close to the very rear corner of both gardens and close to the trees in the rear garden of number 31. Although slightly intrusive in views from the adjoining gardens, the structure is not overbearing and does not result in unacceptable harm to the living conditions of those residents with regard to outlook.

5. The council's second concern relates to overlooking of 31 Riverdale Avenue and 43 Beamshaw Way. Because of the raised decking, the screening afforded by the high fences, between the appeal site and the gardens of these properties, is reduced. Standing close to the fence, I was able to look over it and into the neighbouring gardens. There is also the potential to see into the rear facing windows of each neighbouring property.
6. The decking, on its own, would be unlikely to require planning permission due to the provisions of the GPDO. The 'Permitted development rights for householders: Technical Guidance 2019' explains that garden decking is permitted development under Class E providing it does not exceed 30cm in height. The decking element of this proposal, without the garden room, would therefore represent permitted development. Whilst it appears that the decking has been installed to complement the garden room, there is no reason to assume that it would be removed should this appeal fail. In these circumstances, overlooking from this decking would be no greater than would result with regard to works permitted by the GPDO. In any event, I am not persuaded that the level of overlooking available from the decking, unacceptably reduces privacy within the adjacent gardens or rear facing rooms.
7. The garden room has patio style doors and a large window in the east and south elevations. From inside the room, views are available towards the two neighbouring properties. The fences do provide screening of most of the neighbouring gardens to the side and rear. The front garden room windows and doors allow for views back towards the first-floor windows of 43 Beamshaw Way but this relationship could be expected and anticipated for a similar garden room not requiring planning consent.
8. The east elevation openings allow views towards 31 Riverdale Avenue. The impact of these views differ as these could not reasonably have been anticipated or expected from a garden room not requiring planning permission. The raised floor levels have also increased the scope of these views. Whilst these are the same views that are available from the decking, views from within accommodation, with a potential all year use, are considered to be more intrusive and increase the perception of being overlooked.
9. The council suggest that the distances from the east facing windows to the rear windows of number 31 are in the region of 12m. The Wakefield District Residential Design Guide Supplementary Planning Document 2018 seeks separation distances between existing and proposed facing habitable windows of no less than 21 metres. The definition of a habitable room does not include garden rooms but it does not specifically exclude them from the definition. These windows are also not directly facing but the angle is not significant. The accommodation is of a quality that could have a variety of uses. In these circumstances, the design guidance can reasonably be applied. The separation distance is at odds with it. It would therefore be reasonable to require that the

eastern facing openings be obscure glazed in order to protect the privacy of the residents of 31 Riverdale Avenue when within their dwelling. Subject to such a condition, I am satisfied that the works do not conflict with objectives of the guidance.

10. Overall, other than the window to window relationship considered above, I am satisfied that the works have not resulted in a significant detrimental impact on the living conditions of the neighbouring residents with regard to privacy or outlook. Subject to the side facing openings being obscure glazed, the works do not result in conflict with policies LP56(n) or LP57(a&b) of the Wakefield District Local Plan 2036 (2024) which seek to avoid significant detriment to the amenity of neighbouring residents.
11. The council have identified that the area occupied by the garden room and decking encroaches into a landscaping strip that was required by a condition attached to the permission for the Beamshaw Way houses. This is not a matter that is reflected in the decision notice. As there is no suggestion that permitted development rights were removed from this specific area, a similar marginally lower building could be erected. Given these circumstances, the limited information and the formal reasons for refusal, this matter does not indicate that the appeal should be dismissed.
12. I have had regard to the concerns raised by the neighbouring residents and the council. I have also had regard to the fact that no indication has been provided to suggest that permitted development rights have been removed and that a very similar proposal, of slightly lower overall height, could be built without the need for planning permission. Whilst the works have allowed for the potential for increased overlooking, subject to the eastern openings being obscure glazed, retaining these works would not result in unacceptably reduced levels of privacy for the neighbouring residents. The works have also not resulted in unacceptable harm with regard to outlook. As the other matters put forward do not persuade me that the works are unacceptable, I allow the appeal.
13. As the building is in place, a commencement condition is not required. I have imposed a condition relating to the details of the plans for the avoidance of doubt. I have required that the glazing in the doors and windows in the eastern facing 'Elevation B' be obscure glazed within three months to ensure that privacy within the living accommodation of 31 Riverdale Avenue would be acceptable. I am not satisfied that any other conditions are necessary.

Peter Eggleton

INSPECTOR