



Appeal Decision

Site visit made on 21 February, 2025

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 10th March 2025

Appeal Ref: APP/V4250/D/24/3357888

7 Holton Way, Winstanley WN3 6LZ

- 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 Carl Vincent against the decision of Wigan Council.
 - The application Ref is: A/24/97298/HHRET.
 - The application is for creation of raised upper garden with glass balustrade, render, timber walkway and timber structures. Part retrospective.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed development would form an unduly prominent addition that would fail to respect the character and appearance of the area and whether the proposal would cause undue harm to both the occupants of the host property and the living conditions of neighbours.

Procedural Matter

3. Since the determination of this application a revised National Planning Policy Framework (The Framework) was published on 12 December 2024 (updated 7 February 2025) whose main focus was not directly relevant to this appeal. Nevertheless, I have determined this appeal in accordance with the revised provisions within the Framework.
4. The description of development differs from that used on the original application form and instead reflects that used by the council in their decision notice. This is in light of the council's description better reflecting the actual proposal at hand.

Reasons

5. The appeal property is a sizeable modern detached house standing at the head of the cul de sac that is Holton Way. Although not of the same phase the house is located within a larger estate development of mainly similar houses. It appears that originally the rear garden of the appeal property sloped upwards from the house and as such the lawn area was on a higher level to that of the building itself. Subsequently the appellant undertook work to excavate this raise in level and to lower the ground level under planning application A/22/93819/HHRET.

6. The part implemented proposal before me seeks permission to complete the plethora of garden structures that were commenced later which would see them raise to around 3.93m above the existing patio area that is level with a previous kitchen extension to the rear. The resultant structure would therefore create an artificial deck over the level excavated land and would see this deck become a grassed amenity area that would extend over the majority of the garden. Around the edge of this deck would be a walkway which has largely been installed together with glazed balustrades and timber lean to structures or shelters.
7. The appellant states that the decking as has been installed is only very slightly higher than that of the previous, unexcavated, land level of the original garden. Even though this may be the case, images 2 and 3 within the appellant's statement of case clearly show a slight lowering of the garden and, moreover a clear stagger in the fence line here along the common boundary with 8 Holton Way. Photograph 3 also shows the existing shelter appearing much higher than this previously staggered fence line and extending over much more of the boundary here.
8. I cannot therefore see, from the evidence before me, that the effect of these now extant structures would be negligible as stated within the statement of case as clearly there has been a continuation of the higher boundary structures between the appeal property and number 8 Holton Way and the same has occurred alongside 7 Birbeck Close on the opposite side of the garden.
9. I can see however that the proposal as implemented has made a noticeable difference to the outlook and sense of enclosure that the neighbours at number 8 Holton Way and 7 Birbeck Close experience. Moreover, I consider that, through raising the structures alongside the boundaries here, despite them leaning into the plot, there would be significant harm to the living conditions of neighbours. This sense of enclosure would be made worse by the proposed high backed bench seating that would cause further enclosure and the further increase of structures to this rear garden.
10. I saw on my site visit that the substructure to support such bench seats was seemingly in situ and, were the backs of these to be even slightly more infilled then this sense of enclosure would be significantly greater not only to the neighbours, but also to the host property itself which would be faced with a very high structure only around 1.7m from its rear window.
11. Further to this, although the proposal would more or less enclose the rear garden, this could very well lead to further overlooking of neighbours to a greater extent than before. This would be particularly true of their lower garden areas, and, perhaps, of the upstairs rooms of neighbouring properties upon which this decking would be much more level and more attractive for persons to loiter for longer.
12. Ultimately, this structure appears out of keeping and represents an over development of this rear garden that would cause considerable harm to the living conditions of neighbours through the potential for overlooking, a harmful sense of enclosure that is noticeably higher than what existed previously and an incongruous design that is far more excessive in scale and execution than any other such garden structures nearby.

13. As such this proposal is clearly in contravention of Policies JP-P1 of the Places for Everyone Joint Development Plan which requires new developments to respect and enhance the character of their surroundings. It also conflicts with Policies CP10 and CP17 of the Wigan Local Plan Core Strategy which emphasises high quality design and the protection of neighbouring amenity. Furthermore the scheme is also contrary to the guidance contained within the House Extension Design Guide Supplementary Planning Document (SPD) which discourages structures that are overbearing and the Framework itself which prioritises the need for good design. As such the appeal must fail.

Conclusion

14. As such, for the reasons given above, and taking into account of all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR