



Appeal Decision

Site visit carried out on 10 April 2025

by **Jennifer Vyse DipTP MRTPI DipPBM**

an Inspector appointed by the Secretary of State

Decision date: 24 April 2025

Appeal Ref: APP/R1010/D/25/3358823

31 Sunnyside, Whitwell, Worksop, Derbyshire S80 4SR

- 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 Brendan Boyle against the decision of Bolsover District Council.
 - The application No is 24/00132/FUL.
 - The development proposed is described on the application form as the creation of a raised patio area above an existing patio area.
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Decision

1. For the reasons that follow, the appeal is dismissed.

Main Issue

2. The main issue in this case relates to the effect of the proposed development on the living conditions of occupiers of neighbouring dwellings, having particular regard to overlooking and privacy.

Reasons for the Decision

3. The appeal property comprises a two storey, mid-terrace dwelling that has been extended to a depth of around 3.56 metres to the rear, across the full width of the plot. Ground levels fall to the rear. At present, a narrow elevated patio area across the width of the plot is accessed via French doors at the rear of the property. A short flight of steps adjacent to the boundary with No 29 (to the south) leads down from that upper patio to a lower slabbed area, which fills the space between the steps and the boundary with the adjacent property to the north, No 33. A single storey outbuilding, with a shallow hipped pitched roof over, sits immediately to the east of, and at a similar level to, the slabbed area. The rear garden to the property extends further east, leading on to fields and open countryside.
4. It is proposed to extend the upper patio area out over the lower slabbed area, creating a larger, decked area at the same height as the existing upper patio. The outbuilding to the rear would be reduced in height to the same level as the new decking. It is intended that the resultant flat roof would be planted as a raised bed.
5. The proposed decking area would extend some 3.64m beyond the back wall of the rear extension at the property, with the existing steps to the lower ground level retained in their present position. The new area would be enclosed on three sides by a metal balustrade.
6. Neither of the adjacent properties have been extended to the rear to any significant degree. Consequently, the decking area would project some 7.2 metres beyond the rear elevations of those dwellings, the adjacent rear

gardens to which are at the lower level. Although there is an elevated decking area to the rear of No 33, that sits adjacent to, but does not extend beyond the rear extension at No 31. The rear garden beyond that decking is at the lower level. Anyone using the elevated decking area proposed would have direct, elevated views into the adjacent gardens, with a consequent significant loss of privacy for occupiers. Whilst there is some vegetation on the shared boundaries to the appeal property, it is not sufficient, in my view, to provide any meaningful screening from the elevated position of the proposed decking area.

7. Like the Council, I have given consideration as to whether that issue could be overcome through the use of a condition requiring the erection of screen fencing. However, in order to preclude undue overlooking, it would need to be at least 1.8 metres above the height of the elevated decking area, at least 3 metres above the height of the adjacent garden areas. Moreover, it would need to be a solid structure in order to perform its intended function. Any such arrangement would materially change the appearance of the development for which permission is sought. In any event, in such close proximity to the adjacent garden areas, and at the length and height indicated, I am in no doubt that it would result in a form of development that would have an unacceptably overbearing, if not overwhelming, visual impact, dominating the outlook from the rear of those dwellings and their rear gardens. There would also be implications in terms of the loss of sunlight to the rear garden of No 33, which lies to the north of the appeal site.
8. In support of the appeal, my attention was drawn to an elevated patio area with glazed balustrading to the rear of No 25 Sunnyside which, it is argued, already overlooks the neighbour's gardens, as well as the garden to No 31. I do not know the circumstances behind that arrangement. However, it is not precisely the same as that proposed for No 31. No 25 is an end of terrace property and the rear wall to both it and its adjoining neighbour, No 27, are in alignment, whereas the rear walls to the houses either side of No 31 are set back some 3.56 metres behind the rear wall at No 31, with the consequence that the decking area proposed extends much further back in relation to the neighbouring properties than the patio at No 25 does, exacerbating its impact. Moreover the fact that that existing patio may overlook its neighbours is not a good reason to allow further overlooking.
9. The harm that I have identified, which could not be overcome through the use of conditions, brings the development into conflict with policies SC3 and SC11 of the Local Plan for Bolsover District (March 2020), and the Council's published design guidance 'Successful Places' which, among other things, seek to ensure high quality design in new development in order to provide a good standard of amenity for existing residents in terms of their privacy, outlook and daylight/sunlight. There would be conflict too, with paragraph 135(f) of the National Planning Policy Framework, which seeks to ensure a high standard of amenity for existing residents. On balance, therefore, I conclude that the appeal should not succeed.

Jennifer A Vyse
INSPECTOR