

Decking Within the Curtilage of a Dwelling House

Introduction

In recent years, there has been some considerable growth in the popularity of providing decking within the curtilage of dwellinghouses. This has caused problems in some instances where decking has been built on sloping ground enabling users of the facility to overlook neighbouring gardens. Being generally fixed into the ground, decking is considered to constitute 'development' as defined by S.26 of the Town and Country Planning (Scotland) Act 1997 though not readily falling within any of the existing Classes of 'permitted' development that may be undertaken by householders within the curtilage of their dwellinghouse without the need for planning permission.

Current Practice

Class 4 of Part 1 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) permits, without the need for planning permission, the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse. To date, the practice has been to treat decking at ground level or within 300mm of ground level as a hard surface under Class 4, i.e. planning permission is not required.

Above that height, it is regarded either as an extension to the dwellinghouse under Class 1 of the GPDO if attached to or within 5m of any part of the dwellinghouse, or as a building or enclosure under Class 3 of the GPDO if it is more than 5m from any part of the dwellinghouse. Decking proposals in such cases may, however, still not require planning permission.

As with extensions to dwellinghouses, it has been practice to consider that planning permission is generally not required for decking if it is attached to or within 5m of a dwellinghouse, provided that the floor space does not exceed 24 square metres or 20% of the floor space of the house, whichever is the greater up to a maximum of 30 square metres (planning permission is likely to be required if the decking is located between the house and a road). If the decking is more than 5m from the dwellinghouse, planning permission would not be required if the total area of ground covered by the decking and other buildings or enclosures within the curtilage does not exceed 30% of the total area of the curtilage, excluding the ground area of the original dwellinghouse (again planning permission is likely to be required if the decking is located between the house and a road).

The above permitted development rights are restricted within conservation areas and listed building consent may be required if the decking is attached to a listed building. Elsewhere, e.g. within the grounds of flats, etc. planning permission would be required for the erection of decking regardless of height above ground level.

Conclusion

It is the Council's practice that decking at or close to ground level is viewed as 'permitted development', while elevated decking in the circumstances described above (usually the type of decking that generates complaint), is considered to constitute development requiring planning permission, except where permitted development in terms of Class 1 or 3 of the GPDO.