

Appeal Decision

Site visit made on 23 September 2016

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 October 2016

Appeal Ref: APP/P1133/D/16/3153478

6 Fulford Close, Tedburn St Mary, Devon EX6 6RW

- 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 Barry Mather against the decision of Teignbridge District Council.
 - The application, Ref. 16/00627/FUL, dated 3 March 2016, was refused by notice dated 28 April 2016.
 - The development proposed is described as '*retention of existing decking*'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of decking and balustrades at 6 Fulford Close, Tedburn St Mary, Devon in accordance with the terms of the application, Ref. 16/00627/FUL, dated 3 March 2016, subject to the following conditions:
 - 1) The development shall be carried out in accordance with the following approved plans: Location Plan; Proposed side elevation; Composite Plan showing proposed ground floor, rear elevation and side elevation;
 - 2) Within two months of the date of this Decision, details of additional screening to reduce the inter-visibility between the decking and the rear garden of No. 5 Tedburn Close shall be submitted in writing to the Local Planning Authority. The agreed screening shall be erected within three months of receipt of the Council's written approval of such details and thereafter permanently retained.

Preliminary Matter

2. The application refers to the 'retention' of the decking. However as retention does not fall within the statutory definition of 'development' I shall deal with the appeal on the basis of an application for the erection of the decking and balustrades, albeit in part on a retrospective basis.

Main Issue

3. The main issue is the effect of the decking on the living conditions for the occupiers of adjoining occupiers in terms of the privacy of their rear gardens.

Reasons

4. The Council's concern relates to the use of an area of raised rear decking that has been erected adjacent to the rear wall of the dwelling. In particular,
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because the decking is raised from the ground level it is considered to have caused a loss of privacy to the gardens of No. 7 to the north west and No. 5 to the south east. In the Council's view this is contrary to Policy WE8 of the Teignbridge Local Plan 2013-2033, adopted in 2014 ('the Local Plan'). As well as visiting No. 6, I entered both the neighbouring rear gardens with the permission of the owners in order to assist me in my appraisal.

5. Turning firstly to the effect on No. 7, because of the fall of the land towards the south east the rear garden is higher than that of the appeal dwelling. The consequence of this is that there is an element of looking down from the rear garden of No. 7 to No. 6. However, a wall / fence along a good part of the boundary between the two properties prevents mutual overlooking including from the decking.
6. Although views from the decking include part of the rear garden of No. 7 beyond the extent of the boundary wall / fence, I do not consider that these significantly affect privacy and this is acknowledged by the occupiers of No. 7. In any event, as No. 7 is one half of a semi-detached pair with No. 6 there are already fairly direct views of No. 7's garden from the first floor of No. 6.
7. As regards the rear garden of No. 5, because of the continued fall of the land this is lower than No. 6 and the decking accentuates the height difference. As mentioned in the grounds of appeal, the erection of the substantial boundary fence precludes views of part of the garden of No. 5. However, there are still views of the remainder of this garden and if the current or future occupier of No. 5 were to reduce the vegetation this would increase the loss of privacy.
8. Even more important, it was apparent from my visit to the garden of No. 5 that anyone standing some way away from the fence would clearly see a person of average or greater height standing or walking on the balcony, including leaning over the timber balustrade. This perception of being overlooked is just as important as the actual amount that can be seen and is sufficient for the appeal to be dismissed.
9. However, I consider that additional screening could resolve the problem, for example a half metre high trellis attachment to the boundary fence, or screening on the relevant side of the decking, or something in between. This screening could be secured through the imposition of a condition, with the details to be agreed by the parties. In my assessment this condition would prevent a harmful effect on the living conditions for adjoining occupiers in conflict with Local Plan Policy WE8. I shall therefore allow the appeal and in the interests of certainty also impose a condition requiring the decking to be completed in accordance with the approved plans.
10. The occupier of No. 5 has also complained of flooding and I have noted the comments of the company 'Source' in connection with the large PV panels at No. 6. Whilst an increase in the rate at which water runs off the garden as opposed to soaking into the ground could be a possible consequence of the alterations at No. 6, I have insufficient evidence before me to dismiss the appeal on the grounds that the flooding is due to the decking.

Martin Andrews

INSPECTOR