
Appeal Decision

Site visit made on 18 April 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 26 April 2017

Appeal Ref: APP/Z4718/W/16/3161267

12 Kestrel View, Shelley, Huddersfield HD8 8HH

- 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 Paul Somerville against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2016/62/92435/E, dated 18 February 2016, was refused by notice dated 30 September 2016.
 - The development proposed is the erection of a building with a raised decked area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The building and the raised decked area are already on the site. I was able to see on my site visit that the bottom trellis had already been removed from the decked area. The building was in use by the appellant for office purposes.

Main Issues

3. The main issues are the effect of the proposal upon (i) the living conditions of the occupiers of No 10 and No 14 Kestrel View in respect of outlook and privacy and (ii) the character and appearance of the area.

Reasons

Site and Proposal

4. The appeal site comprises the rear garden of a semi-detached dwelling located within a modern housing estate. The rear garden slopes significantly upwards. There was originally a timber shed positioned at the top of the garden (with a small decked area), although the building appears to have been adapted in terms of increasing its height by a further 125mm. In conjunction with this development, the proposal also includes an extended terraced/decked area which is about 8.19 metres in length and 4.58 metres further forward than the part of the original decking which is positioned in the north eastern corner of the rear garden.
 5. Most of the development is already in situ. The Council has previously refused planning permission (Ref 2016/62/90599/E) for such development, although it is understood that the appellant ran out of time to appeal such a decision. This proposal differs from the previous proposal in so far that it is proposed to erect
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a 1.45 metre high privacy screen (measured from the decking level) to the front and sides of the proposed decked area. In addition, it is proposed to remove the trellis around the bottom of the decking and to reveal the structural posts which would be stained in a dark oak colour. There would be planting and pebbles in this area.

Living Conditions

6. When considered in isolation, the building does not have an adverse impact upon the occupiers of neighbouring residential properties in respect of outlook and privacy. There has been a building on the site for some time and the increase in height relative to the former shed is insignificant.
7. Notwithstanding the above, I consider that when the building and decked areas are considered as a whole owing to their size, bulk and position they have a very dominant and overbearing impact when viewed from the rear windows and gardens areas of No 10 and No 14 Kestrel View.
8. I accept that the proposed privacy screen would have the effect of minimising some unacceptable impacts on the privacy enjoyed by the occupiers of these neighbouring properties. However, such privacy screens would not be effective when people were standing on the deck. In addition, the overall effect of such screens would be that it would create more solid and hence dominant sides to the decked area. Whilst the removal of the bottom trellis has reduced the dominating impact of the development to some extent, this does not overcome my significant concerns about the overall effect of the development upon the occupiers of No 10 and No 14 Kestrel View primarily in terms of their outlook, but also to some extent in terms of their privacy.
9. For the collective reasons outlined above, I conclude that the proposal would not accord with the amenity aims of saved Policy D2 of the Kirklees Unitary Development Plan 1999 (UDP).

Character and appearance

10. The original shed and decked area represented a form of development which was subordinate in scale to the host dwelling. However, when considered as a whole, the appeal development appears dominant, bulky and incongruous in this rear garden setting and is not subordinate in scale with the host dwelling. I reach this conclusion taking into account the fact that the bottom trellis of the decked area has been removed.
11. I accept that the development is positioned to the rear of the house and so it is not particularly noticeable from more public areas. However, it can be seen from the rear of existing residential properties and paragraph 56 of the National Planning Policy Framework (the Framework) states that "*good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute to making places better for people*". In this case, I do not consider that the development contributes to making the area better for the people that reside in it.
12. I have considered the appellant's examples of other terraces/decks in the area, but I am not certain when these developments were built, or indeed whether they have had the benefit of planning permission. Within the immediate vicinity of the appeal site there are other decked areas. However, these are either not as bulky as the appeal development, do not also include a shed or

make use of glazed balustrades. I do not consider that the examples of other developments in the locality are directly comparable with the appeal proposal, and their existence does not justify allowing harmful development which would not accord with the development plan for the area.

13. For the above reasons, I conclude that the development causes material harm to the character and appearance of the area and therefore does not accord with the design aims of the Framework and saved Policies D2 and BE1 of the UDP.

Other Matters

14. I acknowledge the reasons why the appellant wants a level area. However, there are other level areas immediately to the rear of the conservatory. In any event, the reasons for erecting the decking do not outweigh my conclusions on the main issues.

Conclusion

15. Whilst the proposed building is acceptable in terms of its impact upon the character and appearance of the area, and the living conditions of the occupiers of neighbouring residential properties, the proposed decked area is not physically separate from such development and it has been necessary for me to consider the development as a whole. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal as a whole would not accord with the development plan for the area. Therefore, the appeal is dismissed.

Daniel Hartley

INSPECTOR