



Appeal Decision

Site visit made on 7 October 2019 by Darren Ellis MPlan

Decision by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2019

Appeal Ref: APP/M1005/W/19/3234388

21A Peasehill Road, Ripley, DE5 3JG

- 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 R Walters against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2019/0549, dated 15 May 2019, was refused by notice dated 19 July 2019.
 - The development proposed is raised decking & a fence.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The decking and fence that form the subject of this appeal have already been constructed, although the submitted drawings show amended detailing to the top of the fence. I have dealt with the appeal on the basis of the submitted drawings.
4. The appellant suggests that the decking could be constructed without planning permission under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, whether or not the decking is permitted development is not for me to consider in the context of an appeal made under s78 of the above Act. I have therefore dealt with the appeal on the basis of the plans submitted to me.

Main Issue

5. The main issue is the effect of the development on the living conditions of occupiers of no.23 Peasehill Road, with particular regard to visual impact.

Reasons for the Recommendation

6. The appeal site is one of two dwellings on a drive off Peasehill Road, which are oriented at ninety degrees to the adjacent properties. Permission is sought for decking and a fence in the rear garden, abutting the side boundary at the far end of the rear garden of no.23.
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7. The fence starts approximately two-thirds of the way down the garden of no.23 and projects as far as the rear boundary. Due to the level differences between the appeal site and the property to the rear of the site, the fence would be approximately 3m in height above the level of the adjacent garden. There is a summer house to the rear of no.23's garden adjacent to the fence, which suggests that the rear-most part of the garden is a well-used private space.
8. Given the height of the fence and its position on the boundary, the fence is an imposing structure that dominates this part of the neighbour's garden, and in particular the area immediately adjacent to the summer house, and as such has a significant overbearing effect. The proposed alterations to the top of the fence would not result in a significant reduction in the impact of the fence, as the overall height would not be substantially reduced.
9. While the fence may be a similar height to the hedge that formed the previous boundary treatment, the hedge would have had a softer appearance and consequently would have been less overbearing. I note that the adjacent property at no.21b also has a fence along the side boundary of no.23. However, that fence is lower in height than the proposal before me and consequently does not have such a significant impact on the neighbouring garden.
10. It is acknowledged that a fence of this height would prevent overlooking or loss of privacy from the use of the decking. However, privacy could be achieved by other means, including planting, and consequently this does not mitigate the harm that is caused by its overbearing impact.
11. For the above reasons, the proposal causes considerable harm to the living conditions of the occupiers of No.23 Peasehill Road as a result of its visual impact. Therefore, the proposal does not accord with saved policies H12 and LS3 of the Adopted Amber Valley Borough Local Plan 2006 which, amongst other things, require that proposals do not unduly affect the living conditions of adjoining or adjacent properties, and also take into account the relationship between the proposal, the neighbouring buildings and the space between and around those buildings.

Conclusion

12. For the reasons given above and having had regard to all other matters raised, including the fact that no letters of objection were received from neighbouring occupiers, I recommend that the appeal should be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

S Ashworth

INSPECTOR