
Appeal Decision

Site visit made on 4 August 2020

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/G4240/W/20/3251879

12 Hall Avenue, Heyrod, Stalybridge SK15 3DF

- 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 Anthony Jeffers against the decision of Tameside Metropolitan Borough Council.
 - The application Ref 20/00056/FUL, dated 18 February 2020, was refused by notice dated 14 April 2020.
 - The development proposed is rear decking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development includes the change in use of the land to residential curtilage and the erection of raised decking to the rear of the property. This is the description of development on the Council's decision notice. It is also referred to in the appellant's appeal form, and more accurately describes the proposal.
3. The Council's decision notice refers to the proposal as retrospective. Based on the information provided, supported by my observations during the site visit, I am satisfied that the development that has been carried out is the same as that which has been applied for.

Main Issue

4. The main issue is the effect of the development the living conditions of nearby occupiers with regard to privacy and outlook.

Reasons

5. The appeal site is located on Hall Avenue and is within a residential area. Due to the topography of the land, the property is elevated above the dwellings to the rear at 33, 35 and 37 Chamberlain Road. In particular, the private garden at No 35 has a paved seating area directly adjacent to the rear boundary shared with the appeal property.
6. The natural level of the rear garden at the appeal site slopes down towards 33 to 37 Chamberlin Road. The garden is landscaped into terraces to take account of the fall in the land and provide level areas. The garden has been extended at the rear, and decking has been constructed at two different levels, that are linked by steps.

7. The top and bottom decking meet the natural ground level of the garden nearest the house. Each deck becomes increasingly elevated above the natural level of the ground as they extend out towards the properties on Chamberlain Road, creating two raised platforms.
8. The floor level of the decked areas sit above the height of the rear fencing at Nos 33, 35 and 37. Due to their close proximity, standing on the outside edge of both decks causes significant overlooking of these properties and their private gardens. In particular, when stood on the lower deck, occupiers of the appeal property can look directly down into the seating area of No 35. Therefore, the proposal causes loss of privacy to the occupiers of Nos 33, 35 and 37.
9. Turning to outlook, a timber fence has been erected on the outside edge of each of the decks, given their height they do not prevent overlooking, but they do provide additional height to the structure which dominates the width of the rear boundary shared with No 35. As a whole the development is overbearing when viewed from the rear gardens of 33 to 37 Chamberlain Road. It is particularly oppressive and encloses the seating area at No 35.
10. I acknowledge that the appellant has sought to reduce the impact of the structure by painting it green and covering the outside of the fence panels with camouflage netting. Whilst this tones down the colour of the materials, in my view it does not lessen the harm caused by the scale and form of the structure.
11. The appellant states that a 2m gap has been left between the lower deck and the rear fence of No 35, within which he has provided planting. However, based on the evidence provided, supported by my observations onsite, this marginal gap and low level planting would not overcome the harm identified above.
12. The appellant has provided photographs taken prior to the development. These show that the rear of the properties on Chamberlain Road could already be seen, albeit at a distance, from the appellant's conservatory and rear garden. However, this is not comparable to the effect of the decking, as it is substantially closer and at a raised level. Therefore, this does not alter my findings above.
13. I note that the appellant has tried to find a balance between overlooking and loss of privacy, and that he has suggested increasing the height of the screens. However, this would result in it being more overbearing and greater affecting outlook. Therefore, it would not fully address the above matters.
14. Consequently, I conclude that the proposed development would cause loss of privacy and would harm the outlook and subsequent living conditions of occupiers of 33 to 37 Chamberlain Road. It would not accord with Policy 1.3 and H10(a) and (d) of The Tameside Unitary Development Plan (2004), and Policy RD12 of the Tameside Residential Design Guide Supplementary Planning Document (2010) insofar as they relate to ensuring that proposals minimise their impact on the living conditions of neighbouring occupiers.

Other Matters

15. I note the appellant's comments with regards to the ownership of the land, that other gardens have been extended, and whether the application for the change of use was necessary. However, this is a matter for the Local Planning

Authority, and does not affect my findings with regards to the main issue above.

16. I note the other concerns raised by nearby residents regarding noise and disturbance, drainage, storage of materials beneath the decking, the effect on property values, and verbal exchanges between the appellant and neighbouring occupiers. However, these matters do not alter my findings on the main issue.

Conclusion

17. For the reasons given above, the appeal is dismissed.

R Cooper

INSPECTOR