



Appeal Decision

Site visit made on 18 May 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2021

Appeal Ref: APP/Z4718/D/21/3267170

Rock House, 8 Summervale, Holmfirth, HD9 7AG

- 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 & Mrs Johnson against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2020/62/92428/W, dated 27 July 2020, was refused by notice dated 23 November 2020.
 - The development proposed is erection of decking.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development has been changed from that on the application form. I have taken the wording from the Council's Decision Notice, which describes the development accurately. This was changed with the agreement of the appellant, so I am satisfied no injustice has been caused.

Main Issues

3. The main issues in this appeal are the effect of the development on the character and appearance of the area and the effect of the development on the living conditions of adjacent residents with regard to privacy.

Reasons

4. The property related to the appeal is detached, set back from the highway (Summervale). The rear of the property is significantly lower than the highway at the rear and is bounded at the rear by a high retaining wall which does not allow any view of the highway (New Mill Road – A635) at the rear. The property is close to the retaining wall allowing for a limited amount of steeply sloped land to the rear.
5. The decking is already in situ and is on two levels at approximately 2m and 3.7m in height, with a staircase linking the two sections. It is of wooden construction, which is currently unstained. From the evidence in front of me the wood will be dark stained and the stairs re-orientated in order to address issues of privacy.
6. The structure is not easily visible from the street scene and is only viewed from the host property and the adjacent residents. However, as a structure, I find that it dominates its surroundings and looks incongruous with its scale and massing enclosed in such a small space

7. Even the staining of the timber will still leave an imposing structure, close to the boundaries with the adjacent properties. I find that the overall impact of the decking is detrimental to visual amenity, and the character and appearance of the area, even if the structure is not easily visible from the public realm.
8. As a result, I find that the proposal is contrary to Policy LP24 of the Kirklees Local Plan (2019) (the LP) which, amongst other matters, expects development to respect and enhance the character of the townscape.

Living Conditions

9. The decking subject to the appeal forms a useable area to the rear of the dwelling and has been erected close to the boundaries with both adjacent properties. From my site visit, it is apparent that it is at a much higher level than much of the rear amenity space of the neighbours, even at the lower level of the decking, and I found this to a greater extent at the upper level. Very clear views are available from the decking over the boundary fencing into these gardens, and I found that I could also look clearly into the upstairs bedroom of number 6 from the upper deck as well as a greater percentage of the garden, including a patio table set out at the rear. I find this loss of privacy injurious to the living conditions of both properties.
10. I understand that the appellant intends the dark stain the timber, re-orientate the stairs and restrict access to a section of the decking to address issues of privacy, but I find these changes would do little to assist in protecting the privacy of the adjacent residents.
11. Having regard to the points set out above, the decking subject to appeal has substantially increased the extent of overlooking of neighbouring properties from the appeal site and therefore caused material harm to the living conditions of their occupiers. I find conflict with the provisions of Policy LP24 of the LP which requires development, amongst other matters to provide a high standard of amenity for neighbouring occupiers. There are no other matters which have been drawn to my attention which outweigh these findings.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR