



Appeal Decision

Site Visit made on 25 May 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/A4710/W/21/3269896

**7 Stoney Springs Mill, Burnley Road, Mytholmroyd, Hebden Bridge
HX2 6DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Ms Jenson & Mr Preston against Calderdale Metropolitan Borough Council.
 - The application Ref 20/00952/HSE, is dated 13 August 2020.
 - The development proposed is extension and extension to existing decking area.
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Decision

1. The appeal is dismissed and planning permission for extension and extension to existing decking area is refused.

Procedural Matter

2. The Council have not issued a refusal notice. However, I have had regard to the Council's accompanying statement of case, in so far that it provides clarity in terms of the reasons why the Council would have refused planning permission had it been able to do so.

Background and Main Issue

3. The appeal site lies within the Green Belt, the construction of new buildings is not inappropriate development provided they meet certain exceptions. This includes as set out in Paragraph 145 (c) of the National Planning Policy Framework (the Framework) *'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'*. Both the main parties agree that the proposals would not be inappropriate development in the Green Belt, with little impact upon the openness of the Green Belt.
4. Therefore, the main issue is the effect of the proposals on the living conditions of neighbouring occupiers at No.6 and No.8 Stoney Springs Mill, with particular regard to privacy, overlooking and loss of daylight/sunlight.

Reasons

5. Saved Policy BE2 of the Replacement Calderdale Unitary Development Plan 2006, as amended by direction of the SOS, 2009 (RCUDP) sets out that development proposals should not significantly affect the privacy, daylighting and private amenity space of adjacent residents or other occupants.
6. The appeal site is a residential property located within a converted mill with access into the building from the north western elevation of a courtyard /

parking area. The property is over three levels and has an enclosed rear area accessed internally. It sits in between No.8 and No.6 of the building. The outside area is enclosed by existing fencing with a decking area in situ. Directly to the south west, it faces over the Rochdale Canal.

7. The proposed single storey extension would be of modest size with a contemporary clad design with bi-fold doors. It would be positioned over the existing decking with the fencing remaining along each of the neighbour's boundaries. Given its limited projection, height and that it would be set in from the boundary on each elevation the proposed single storey extension would not impact on the living conditions to those neighbouring properties at No.6 or No.8, with regards to privacy, overlooking or loss of daylight/sunlight.
8. As such, the proposed single storey extension would comply with Saved Policy BE2 of the RCUDP. Furthermore, it would meet the Council's guidance as set out in Annex A – Privacy, Daylight and Amenity Space of the RCUDP.
9. In regard to the extension to the existing decking area, this would protrude some further 2m than the existing decking which at present has a similar consistent line with the neighbouring rear amenity/decking areas. Although, there is existing fencing along the boundary the fencing towards No.8 is somewhat lower than No.6. As I observed at the time of my site visit, very clear views are available into the garden area of No.8, and I could look visibly towards the rear doorway. Therefore, any extension to the decking would exacerbate this issue of overlooking and would result in an unjustified loss of privacy to this neighbour particularly within the private amenity space of No.8.
10. The fencing is higher along the boundary with No.6, therefore there is no existing overlooking or privacy concerns. However, the proposed extension to the decking would change the site lines, as it would be positioned further back than the fencing. Therefore, it would result in anybody using the extended decking, particularly when stood having significant views into this garden if they were close to the boundary. I don't accept the notion that it would only be possible if one was 'craning one's neck' to see over the fencing from the decking or that it would be no different to the current position. Therefore, due to the proposed depth, anybody using the decking, particularly when in a standing position would be able to view the rear private amenity areas of both No.6 and No.8.
11. I accept that the appellant has gone to some extent of mitigation by proposing a post and rail fence along the extended area. However, this would do little to protect the privacy or prevent overlooking for the adjoining occupiers. I acknowledge that the appellant indicates that a 2m fence could be erected along the boundaries under permitted development, however in the absence of any further evidence or lawful certificate, I give this 'fallback' limited weight.
12. Furthermore, the erection of a 2m fence along each of the boundaries on the proposed projecting decking would likely appear as an overbearing addition, when viewed from neighbour's private amenity areas. Moreover, due to the height, alignment and projecting depth of the proposed decking, such a fence would appear as a rather odd, and incongruous addition, particularly if it were to be viewed from the canal side, as the site is highly visible from views along the tow path.

13. For the reasons given above, I conclude that the proposed extension to the existing decking area would result in harm to the living conditions of neighbouring occupiers at No.6 and No.8 Stoney Springs Mill, with particular regard to privacy and overlooking. It would be contrary to Saved Policy BE2 of the RCUDP, as I have set out.

Other Matters

14. I note that local residents have expressed additional concerns about the proposed development, including the design, appearance, impact on the converted building, ecology, trees, land stability, odours, construction noise and disturbance. However, the Council did not raise these matters as concerns if the application were to have been determined. Moreover, I have no substantive evidence to support those concerns. In regard to private ownership or boundary issues these would be private matters for the individuals involved. Given my findings in relation to the main issue, it is not necessary to consider these matters in detail.

Conclusion

15. Although I have found that the proposed single storey extension would not cause any harm, this does not outweigh the harm I have found the proposed extension to the existing decking area would cause to the living conditions of neighbouring occupiers. This would be contrary to the development plan taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
16. For the reasons given above I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR