



Appeal Decision

Site Visit made on 4 May 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2021

Appeal Ref: APP/B2355/D/21/3271182

202 Haslingden Old Road, Rawtenstall, Rossendale BB4 8RS

- 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 Terence Heap against the decision of Rossendale Borough Council.
 - The application Ref 2020/0573, dated 1 December 2020, was refused by notice dated 22 February 2021.
 - The development proposed is a rear balcony.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of neighbouring properties with particular regard to privacy.

Reasons

3. 202 Haslingden Old Road is a semi-detached dwelling located on a corner at the junction of Haslingden Old Road with Barnes Avenue. The dwelling, along with its attached neighbour, 56 Barnes Avenue, is one of a number of similar pairs of semi-detached dwellings within what is predominantly a residential area. Although this pair has a slightly different orientation to those nearby, I saw that the overwhelming character of the area is of dwellings arranged in a standard pattern with greater degrees of privacy to the rear. Rear gardens are generally enclosed affording relatively good levels of privacy that individuals would legitimately expect to be appropriately protected.
4. No 202 has a two storey extension across the full extent of the rear elevation. This extension is stepped back from No 56 about halfway across the rear elevation to align with the conservatory at No 56. This set back element of the extension includes glazed double doors at first floor level. A standard height timber fence demarcates the boundaries with the rear gardens of No 204 and No 56.
5. Due to the differing orientation between No 204 and the appeal site, the windows of No 204 are reasonably well protected from overlooking at present. However on my site visit I observed when standing in the garden of No 202, that due to the significant change in levels between the appeal site and No 204, it is possible to overlook a portion of the garden of No 204, including a raised patio area adjacent to the rear elevation of the dwelling.

6. The fence and shrubbery growing adjacent to the boundary with No 56 limit views from the appeal site to the garden of No 56 for the majority of its length. I accept that there is already some intervisibility between No 56 and No 202, to a greater extent than between Nos 204 and 202, including through windows at doors at first floor level at No 202. However, the extent of such intervisibility is relatively limited by virtue of the distance of windows from boundaries and existing boundary features. As such I am satisfied that any overlooking that does occur is not greater than one would expect in this area. I therefore conclude that the existing privacy levels in the garden of No 204 are reasonably low, whilst the privacy levels in the garden of No 56 are higher and in line with the prevailing privacy levels of the area.
7. The proposal is to largely infill the space between the existing rear extension at No 202 and No 56, creating a balcony that would be accessed via existing doors. The proposal would be supported by two steel posts and would include an aluminium handrail and glazed baluster at 1.1m high. An obscure glazed screen to 1.7m high would be constructed adjacent to the boundary with No 56. The balcony would not extend for the full extent of the larger rear projection and would be inset slightly.
8. The position of the balcony immediately adjacent to the boundary with No 56 would mean that it would be possible to overlook large parts of the rear garden of that dwelling and parts of the conservatory from the balcony. Furthermore, the scale, elevation and siting of the balcony immediately adjacent to the boundary would mean that it would be likely to be easily visible from the garden of No 56. This would be likely to lead to residents of No 56 experiencing a significant increase in the perception of being overlooked when in their garden, which alongside the increased potential for direct overlooking that would occur, would dramatically reduce the existing privacy levels in that garden.
9. Whilst the obscured screen would offer some reduction in views from the balcony down towards the neighbouring conservatory and adjacent spaces, this would not, in my view, avert the perception of being overlooked in these areas. I therefore conclude that the proposal would result in an unacceptable loss of privacy to No 56 through actual and perceived overlooking which would have an adverse effect on the living conditions of the residents of that dwelling.
10. As the garden at No 204 is elevated significantly above the level of the appeal site, and taking into account the orientation and separation between the two dwellings, as well as the inset nature of the balcony the effect of any overlooking from the proposal on the occupiers of No 204 Haslingden Old Road would be limited so as not to lead to undue effects in that regard. For similar reasons and given greater separation, in my view no unacceptable effects would arise to the privacy of the occupants of No 206.
11. The Council has raised concern that the proposal would create opportunities for noise and disturbance which could affect nearby residents. However, the appeal site has an existing patio and seating area at ground level, and I have not seen any evidence that the proposal would be likely to lead to noise or disturbance beyond that which could be reasonably expected to arise from those existing outside spaces. I therefore conclude that the proposal would not be likely to lead to unacceptable noise or disturbance being experienced by nearby residents.

12. For the above reasons I conclude that the proposal would result in an adverse effect on the living conditions of the occupants of No 56 Barnes Avenue in conflict with policy 24 of the Rossendale Core Strategy (adopted 2011) and paragraph 127 of the National Planning Policy Framework which, in summary and amongst other things, seek to provide high standards of design with regard to living conditions. The proposal would also conflict with the guidance contained within the SPD Alterations and Extensions to Residential Properties (adopted 2008) which advises that balconies should be appropriately sited in order to avoid harm to living conditions.

Conclusion

13. For the reasons given above, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR