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# Appeal Decision

Site visit made on 13 October 2021

**by S Ashworth BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 25 October 2021**

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**Appeal Ref: APP/G4240/D/21/3277719**

**24 Laycock Avenue, Stalybridge, SK15 3HG**

- 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 Philip Delaney against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 20/01135/FUL, dated 22 November 2020, was refused by notice dated 24 May 2021.
  - The development proposed is raised decking to rear of property with glass balustrade and other external alterations including external steps, wall and fence.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. At the time of my visit, the decking had been constructed but the glass balustrade, fence and steps had not yet been built. I have dealt with the appeal on that basis.

## Main Issue

3. The main issue in this case is the effect of the proposal on the living conditions of the adjoining occupiers, with particular regard to privacy.

## Reasons

4. 24 Laycock Avenue, a semi-detached house, occupies a corner plot at the junction of Laycock Avenue and Shakespeare Avenue. Its rear garden is irregularly shaped and, as with the gardens of the neighbouring properties, slopes upwards away from the house.
5. The decking, which has a high-quality finish and appearance, has two levels connected by steps. It is proposed to construct glass balustrades to two sides and 2m high fencing to the boundary with No 55 Shakespeare Avenue. The decking, which has been constructed alongside the common boundary with No 55, occupies a substantial portion of the rear garden but leaves a lawned area adjacent to No 22 Laycock Avenue.
6. Existing boundary fencing at the rear of properties tends to be low, such that there is an ability for occupiers of one property to see into the garden of the next. Indeed, even from the remaining lawned area, the natural ground level, it was possible to see into the gardens of adjoining houses. Accordingly, no

objection has been raised by the Council to the impact of the development on the living conditions of No 22 and I have no reason to disagree.

7. However, there is conservatory to the rear of the adjoining semi No 55, which has been constructed at ground level, into the slope of the land, at the same level as the house itself. Prior to the decking being built the boundary fence would have provided a sense of enclosure and a degree of privacy even though it would have been possible to see over the top of the fence.
8. The lower tier of decking is some 0.86m above ground level. I saw on my site visit that it is possible to see fully into the conservatory from that level as such significantly reducing privacy. In addition, anyone sitting or standing on the raised decking would be readily apparent from within the conservatory. Accordingly, the use of the decking is overbearing and intrusive to the occupiers of that property and I have no doubt that it has detracted from the enjoyment of the conservatory.
9. The appellant is seeking, as part of this proposal, to mitigate the current loss of privacy by the construction of a new fence between the conservatory and decking. However, given the height of the decking, a 2m high fence would still allow overlooking from an elevated position. Accordingly, whilst there would be an improvement over the current situation, the proposal would still be overbearing and significantly more intrusive than the position prior to the construction of the decking.
10. From all I have seen, it is clear that the decking is well-built and provides useable outdoor space to the appellant and his family. However, I am unconvinced that a level surface could not be provided without such detriment to the living conditions of the neighbouring residents.
11. The reason for refusal draws my attention to Policy RD12 of the Residential Design SPD. This policy contains guidance for the design of private amenity space. Whilst it requires that roof gardens/terraces are designed to reduce conflict with other residents, the proposal does not conflict with other guidance therein.
12. However, for the above reasons, as a result of its height and position adjacent to the common boundary, I conclude that the proposal has a detrimental effect on the living conditions of the adjoining occupiers at 55 Shakespeare Avenue, with particular regard to privacy. As such it is contrary to Policies 1.3 and H10(d) of the Tameside Unitary Development Plan which require, amongst other things, all developments to be of high-quality design, sensitive to the character of the area, particularly the relationship between buildings and between buildings and adjoining spaces and have no unacceptable impact on the amenity of neighbouring through loss of privacy.
13. For these reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*S Ashworth*

INSPECTOR