



Appeal Decision

Site visit made on 5 January 2022

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2022

Appeal Ref: APP/E2340/D/21/3281934

Marsdene, 77 Walton Lane, Nelson BB9 8BG

- 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 S Yakub against the decision of Pendle Borough Council.
 - The application Ref 21/0318/HHO, dated 13 April 2021, was refused by notice dated 8 June 2021.
 - The development proposed is first floor rear extension to provide enlarged bedroom and glazed balcony over existing single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above is taken from the planning application form. The Council's Decision Notice describes the development as a 'first floor glazed balcony over existing single storey rear extension'. It thereby limited the scope of its decision to the balcony element only.
3. At my site visit, I saw that a first-floor rear extension had been constructed at the site. I acknowledge that an earlier planning permission for the erection of a first-floor extension with Juliette balcony was approved in April 2020¹. However, the extension as built does not incorporate a Juliette balcony. Furthermore, on the basis of the information before me, I cannot be sure that the extension is that permitted under the previous approval and I have therefore considered the appeal on the basis of the description of development appearing on the planning application form.
4. There are some differences between the as-built development and that on the submitted plans. For the avoidance of doubt, this appeal is determined on the basis of the plans as submitted with the planning application.

Main Issues

5. The main issues are the effect of the development on:
 - the character and appearance of the building and wider area
 - the living conditions of neighbouring residents with particular regard to daylight and outlook.

¹ Ref 20/0005/HHO

Reasons

Character and appearance

6. The site lies within a predominantly residential area of mixed house types of varying ages and designs. The proposal seeks the addition of a modest first-floor rear extension with a flat roof design. The extension would be finished in a modern smooth-render and utilise uPVC window and door framing. The balcony area, utilising the flat roof of the ground floor extension lying behind the first-floor extension, would be enclosed by obscure polycarbonate screens on 3 sides.
7. The proposal would be located to the rear of the building and close to the boundary with the adjoining dwelling at 75 Walton Lane. As such, it would not be visible in the Walton Lane streetscene. However, the development would be observable from nearby properties, including some on Walton Lane and Marsden Hall Road North. Glimpsed views to the rear of the property can also be seen between some buildings on the eastern side of Marsden Hall Road North and across the school grounds to the rear of the appeal site.
8. Whilst the form of the extension would marry with the appearance of the ground floor flat-roofed extension, the large opaque polycarbonate screens would appear as an incongruous element. Although the use of such screens is not unusual, the extent of the necessary enclosure of the balcony required to protect the privacy of neighbouring occupiers would be significant and far greater than most examples. Against the modest size of the proposed extension, this would cause the screens to be a dominant element of the proposal.
9. The subsequent significant scale and position of the screens, which would extend outwards high on the building, would make them a prominent and unusually large feature in the context of the local development.
10. For those reasons, I find the proposal would appear incongruous on the building and in the locality. It would conflict with Policy EN2 of the Pendle Local Plan Part 1: Core Strategy 2011-2030 [2015] (CS), saved Policy 13 of the Replacement Pendle Local Plan 2001-2016 [2006] (LP), the Design Principles Supplementary Planning Document 2009 (the SPD) and the National Planning Policy Framework as they seek high standards of design of development that is in scale and harmony with the character of the area.

Living conditions

11. The first-floor extension is located close to the common boundary with the adjoining property at No75. The neighbouring building has a ground floor rear extension with a first-floor window opening above. The window is within the original rear elevation close to the proposed extension.
12. The Council's SPD states that extensions 'should be designed to avoid causing overshadowing, loss of outlook or loss of privacy to the neighbours, or appear unduly dominant to neighbours'. It provides guidelines for the consideration of development proposals. It states that 2-storey extensions will only be acceptable if they do not breach the 45-degree rule as explained in the document.

13. According to the appellant's plans, the main body of the extension would result in a slight infringement on the 45-degree line taken from the centre of the adjacent window. Subsequently, the rearward projection of the proposed glazing screen closest to the common boundary of the semi-pair would be entirely in conflict with the Council's adopted guideline approach.
14. The effect of the large projection of the combination of the extension and screen would be to dominate and substantially close-down a large part of the rear outlook from the nearest first floor window of No75. This would cause significant harm to the standard of living conditions currently enjoyed by occupiers of the neighbouring dwelling through the introduction of an obtrusive form of development in that outlook.
15. The northerly orientation of the properties means that rear-facing windows will receive little direct sunlight and be dependent on ambient daylight for natural illumination of the rear rooms. However, I find the translucent nature of the screen would be unlikely to cause a significant effect on daylight levels within the first-floor room of No75.
16. For the above reasons, I find that the design of the proposal would cause harm to the living conditions of the neighbouring occupiers of No75 through the creation of poor outlook. It would conflict with Policy EN2 of the CS, saved Policy 13 of the LP, the SPD as they seek the highest possible standards of design and to protect the quality of life for the Borough's residents.

Other Matters

17. I note the observations of the neighbouring occupiers as to the effects of the development on privacy, however, pursuant to my findings on the main issues, my decision does not turn on that matter.

Conclusion

18. Notwithstanding my finding in favour of the appellant in relation to the effect of the development on the amount of light entering the adjacent window, this does not outweigh the significant harm arising to the outlook of neighbouring occupiers and the effect on the character and appearance of the building and its locality. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

R Hitchcock

INSPECTOR