
Appeal Decision

Site visit made on 11 January 2022

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 JANUARY 2022

Appeal Ref: APP/W4223/D/21/3283288
7 Crompton Hall, Shaw, Oldham, OL2 8FN.

- 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 Mrs D Hesketh against the decision of Oldham Metropolitan Borough Council.
 - The application Ref. HOU/346589/21, dated 23 March 2021, was refused by notice dated 7 July 2021.
 - The development proposed is the erection of a garden shed, decking and external flue on the dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a garden shed, decking and external flue on the dwelling at 7 Crompton Hall, Shaw, Oldham, OL2 8FN in accordance with the terms of the application, Ref. HOU/346589/21, dated 23 March 2021 and the plans submitted with it. (No conditions are imposed on this permission.)

Procedural matters

2. I have amended the description of development from that set out in both the application form and the Council's decision notice as 'retention' is not an act of development although I note that the development specified has already been undertaken. The appellant's agent indicates that some of the decking may be immune from enforcement action and be lawful because of the passage of time but that it not a matter that is before me in this section 78 appeal.

Main Issue

3. The main issue is the effect of the development proposed on the character and appearance of the host dwelling and the wider street scene including the presence of trees on site.

Reasons

Background

4. The appeal site contains a detached dwelling of a modern design and its garden which is one of a group of 6 properties which appear to have been redeveloped on the site of the property known as Crompton Hall. The appeal site also lies on the corner of the access with Buckstones Road and the site lies well above the level of the road. The proposal is to erect a small timber garden shed and construct three areas of timber decking between the house and Buckstones

Road/ and Crompton Hall access road and add the external flue to the property on the elevation facing the turning head of the cul-de-sac.

5. The trees on the site of Crompton Hall are subject to a Preservation Order made in 2001. I note that the Council granted in September 2021 consent for the felling of an Ash Tree on the appeal site subject to a condition requiring the planting of a replacement heavy standard Beech or Copper Beech.

Effect on character and appearance

6. Dealing with the effect of the decking first, there is little flat land around the base of the dwelling consequently most of the garden slopes away to Buckstones Road and the access way and lies under the canopy of trees. The sloping garden is visible to the public realm along Buckstones Road especially from the north-west but at the visit I noted that an evergreen laurel hedge has been planted above part of the stone retaining wall which runs around the property's boundary with the street. This screens much of the garden at ground level including decking area A on the corner of the plot. Decking areas B and C are located near the house itself and are seen against the backdrop of the house and its domestic paraphernalia. Considered individually and together I am satisfied that the three areas of timber decking do not harm the verdant residential character of the site or views of it from the public realm.
7. An objector refers to the height of the laurel hedge being restricted under other legislation, but it does not appear to me than the hedge would materially restrict light or views from other properties. I should therefore take the present screening effect of the hedge into account.
8. In relation to the protected trees, the one in the centre of decking A has now been felled with consent (see paragraph 5 above) and only a stump remains. At the visit it was not apparent that any of the remaining trees had been affected by the extent of decking or the location of the shed.
9. The garden shed proposed is a relatively modest structure constructed from rough sawn timber with a simple metal sheet roof. At its highest point on sloping land the shed measures 2.8m high but I saw at the visit that much of its visual impact is screened by the laurel hedge and the small element seen over the hedge does not appear materially out of place. A canopy attached to the shed, which provides shelter over a jacuzzi, does appear as a prominent structure over the present height of the hedge. It has a piecemeal and prominent appearance partly due to its proximity to the edge of the site and it detracts from the verdant character of the area. However, this addition is not one of the structures proposed in the application and it is not before me.
10. The external flue is on the elevation of the property facing the cul-de-sac of the housing group and it exits the house at ground floor and then kinks out to pass the eaves and is of a height equal to the ridge of the roof. It is painted matt black. This matches the rainwater pipes on this elevation and the flue is not a prominent or discordant feature on the property. Its presence does not harm the appearance of the area.
11. An objector refers to various 'rules' governing flues but these appear to relate to the circumstances when a flue may not need planning permission rather than the assessment of its effect when permission is required. Moreover, I have not been advised of any requirements in the development plan or national

planning guidance about smoke control and have considered the proposal on its merits mainly regarding visual impact.

Planning balance

12. Overall, I am satisfied that the decking, garden shed, and flue do not harm the character and appearance of the host property and its verdant garden or the wider townscape when viewed from the enclave of properties around the cul-de-sac or from Buckstones Road. Neither does the development proposed now harm protected trees. There is no conflict with the requirements of Policy 20 of the Oldham Local Plan about quality design reinforcing local distinctiveness or saved policy D1.5 of the Unitary Development Plan regarding the protection of trees.
13. This finding is not outweighed by any other consideration and this indicates that the appeal should be allowed.
14. In terms of conditions the Council indicates that the only condition that is necessary is one to ensure that the development is carried out in accordance with the approved plans. However, as the application is retrospective this is not necessary.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR