



Appeal Decision

Site visit made on 25 October 2022

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal Ref: APP/W4325/D/22/3302333

12A, Market Street, Hoylake CH47 2AE

- 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 Tracy Saunders against the decision of Wirral Council.
 - The application Ref: APP/21/02120, dated 7 December 2021, was refused by notice dated 14 April 2022.
 - The development proposed is addition of a first-floor terrace over existing roof.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the living conditions of neighbours in respect of outlook and privacy.

Reasons

3. No.12A Market Street is part of a three-storey terraced building located within Hoylake town centre. The proposed terrace would be situated at first floor level at the rear of the building facing Charles Street and over the flat roof of an existing single storey shop rear extension. There is an adjacent existing roof terrace at the property known as No.10A Market Street according to the appellant. That terrace is located at a slightly lower level compared to the appeal proposal.
4. The terrace would allow views towards a car park and the business premises of F C Hardware. The plans were amended during the course of the application by reducing the width of the terrace next to No.14A by 1 m. The terrace would have timber boundary balustrade fencing.
5. The Planning Officer's report indicates that the proposed development would not be visually intrusive. It adds that there is potential for overlooking of the rear yard (sole private amenity space) of No.14A Market Street but advises that any loss of privacy could be mitigated by the erection of a 1.7 m high privacy screen. A privacy screen of around 2 m in height is proposed for the side of the terrace adjacent to No.10A. However, the Council considers that such a screen, combined with the lower level of the terrace at No.10A would appear overbearing for the occupants of No.10A when using their terrace. The open nature of the proposed timber balustrade would also allow overlooking of the lower terrace with consequent loss of privacy for the occupants of No.10A.

6. I note that the occupants of No.10A have raised concerns regarding loss of privacy, rather than loss of outlook, but add that if they were to support the application the dividing barrier would need to be changed to something that is completely occlusive. The occupants of No.14A had no objection to the concept of a terrace, just to the current design. They asked that the plans be changed so that their light and view would not be blocked.
7. I have considered whether further details of alternative barrier treatment could be sought through the imposition of a planning condition, as it appears possible acceptable solutions could be found. However, it is important that neighbouring occupants and any other parties have the opportunity for consultation and comment on any revised plans and drawings for the proposed barriers. In these circumstances I must conclude that such a condition could be prejudicial to third parties and the Council and would therefore be inappropriate.
8. I therefore find that the proposed first floor roof terrace, on the basis of the plans refused by the Council, would have an adverse effect on the living conditions of neighbours in respect of privacy and outlook. The proposal would therefore conflict with policy HS11 of the Wirral Unitary Development Plan which, amongst other things, seeks to protect residential amenity. It would conflict with the Council's supplementary guidance: House Extensions which indicates that balconies will not be acceptable if they increase overlooking into neighbours' properties to an unacceptable degree. It would also conflict with the objective of protecting residential amenity in the National Planning Policy Framework.

Other Matters

9. An objection was raised by the occupants of Nos.12-14 Market Street. The terrace would be formed above their ground floor kiln room, baby change, disabled toilet, stock room and fire exit. It is claimed that building work at No.12A has caused damage to their ceiling and wall. However, any alleged damage from works would be a matter for resolution between the parties concerned. I saw at my site visit that the main public area of the shop requiring a quiet environment was towards the Market Street frontage, rather than below the proposed terrace, where any noise could be generated through its use by the occupants of No.12A.
10. At the time of my visit Charles Street was lined with parked vehicles and the car park was also in use. A large block of flats was under construction at the end of Charles Street and there is potential for it to generate increased parking pressure in the area. The appellant has advised that they are considering the conversion of their yard to provide an off-street parking space. In such circumstances, the proposed terrace would provide an alternative amenity area.

Conclusion

11. I have taken all other matters raised into account. However, for the reasons given above, I conclude that the appeal should be dismissed.

Martin H Seddon

INSPECTOR