



Appeal Decision

by Helen Smith BA(Hons) BTP MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 21/06/2023

Appeal reference: CAS-02660-V2G6B3

Site address: Ty Heb Enw, Fenwick Street, Pontygwaith, Ferndale, CF43 3LW

- 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 Russell Tann against the decision of Rhondda Cynon Taf County Borough Council.
 - The application Ref 22/1291/10, dated 20 December 2022, was refused by notice dated 14 February 2023.
 - The development is retrospective application for rear garden timber decking.
 - A site visit was made on 6 June 2023.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has been completed and the appeal therefore seeks retrospective planning permission.

Main Issue

3. This is the effect of the development on the living conditions of the occupiers of Nos. 20 Fenwick Street and Fenwick House with particular regard to privacy.

Reasons

4. The appeal property consists of a detached house with a steeply sloping rear garden comprising of three terraces of different levels rising to the rear boundary of the site. The lower terrace is a slabbed patio area accessed by steps from a conservatory. From this patio there are a further set of steps leading to the middle terrace. Both of these terraces have a mix of generally low boundary treatments ranging from railings, timber fencing, and stone walls together with a section of mature hedging. A set of timber steps have been constructed leading to a raised timber decked area of significant height, the subject of this appeal, which extends the full width of the garden area. The timber raised deck area includes a solid timber fence with a height around 1.8m on both sides and a timber balustrade with a height of around 0.9m on the front of the timber deck directly facing the rear of the appeal property.

5. Policy AW 5 of the Rhondda Cynon Taf Local Development Plan (2011) (LDP) supports development proposals where there would be no significant impact on the amenities of neighbouring occupiers. Further guidance on how developments can achieve this is set out in the Council's Supplementary Guidance 'A Design Guide for Householder Development' (2011) (SPG). The SPG advises that raised decking will not normally be permitted where it has a detrimental impact upon neighbouring properties.
6. The decking for which planning permission is sought is significantly higher in comparison to the levels of the neighbouring houses of 20 Fenwick Street and Fenwick House. As the ground floor windows of the neighbouring properties are at a lower level than the decking and are partly screened by the levels of their garden areas, I saw that there are no direct views into these windows. However, due to its elevation and proximity to the rear of these dwellings, there are clear and elevated views towards the first floor rear windows and yard area of No. 20 and the dormer windows and rooflight of Fenwick House. With regard to No. 20, the first floor window closest to the boundary is clear glazed and I saw that direct views were available into it from the elevated deck. There are also clear views down into No 20's rear yard area, which is the more usable part of the garden due to the sloping nature of the remainder of the garden area. Part of Fenwick House's boundary adjacent to the middle terrace includes a mature hedge with a significant height. Whilst this existing feature limits the views from the decking area into the garden area, there are still elevated views into a clear glazed dormer window and the rooflight nearest to the boundary.
7. From my observations at my site visit, the affected first floor windows appear to serve a bedroom at No. 20 and accommodation in the roof space of Fenwick House. I acknowledge that there is some degree of overlooking of these windows from the lower and middle terrace given the lower boundary treatments in these locations. However, these views are more oblique and less direct, which mitigates its impact. The decking has created a larger more usable space, likely to be used more frequently and for longer periods of time. For this reason and due to its elevated position, the decking would materially worsen the level of overlooking that would have been the case previously. This level of overlooking of both properties, particularly in the summer months when the decking area would be in more use, results in a significant adverse effect on the privacy of their occupiers.
8. I have considered whether any further screening could mitigate the overlooking. However, given the height of the decking and the level of screening that would be required to safeguard privacy, based on the submitted evidence I am not persuaded that acceptable mitigatory screening could be achieved in a manner which would avoid other harmful effects, for example on the outlook available from neighbouring dwellings.
9. I have had regard to the representations on the application from the occupiers of Nos. 20, 21 and 22 raising no objections. However, the harm that I have identified would be permanent and would affect future occupants of the neighbouring properties. I therefore attach limited weight to the matters raised in these representations.
10. I therefore conclude that the decking causes unacceptable harm to the living conditions of the occupiers of No. 20 and Fenwick House, contrary to Policy AW 5 of the LDP and the aims of the Council's SPG.

Conclusion

11. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

12. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective to make our cities, towns and villages even better places in which to live and work.

H Smith

INSPECTOR