



Appeal Decision

by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 12/04/2024

Appeal reference: CAS-03221-C5D3S2

Site address: 27 Wrexham Road, Brynteg, Wrexham, LL11 6HP

- 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 Mark and Mr Matthew Norris-Hamilton against the decision of Wrexham County Borough Council.
 - The application Ref BRO P/2023/0443, dated 29 June 2023, was refused by notice dated 21 December 2023.
 - The development is the erection of decking and associated balustrade and stairs.
 - A site visit was made on 15 March 2024.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of decking and associated balustrade and stairs at 27 Wrexham Road, Brynteg, Wrexham, LL11 6HP in accordance with the terms of the application, Ref BRO P/2023/ 0443, dated 29 June 2023, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal seeks part retrospective permission. The decking surface and steps were in place at the time of my visit, but the balustrade height as shown on the submitted drawings (01-Proposed Elevations WR/PD/01 Rev-B and 03-Proposed Sectional Elevation AA-01 WR/PD/03 Rev-B) had not been raised, and not all restraint rails beneath the handrail had been affixed. No privacy screen was present.
3. I viewed the proposal from the appeal site and from the neighbouring property at No 26 Wrexham Road (No 26).

Main Issue

4. The main issue is the effect of the development on the living conditions of occupiers of No 26.

Reasons

5. The appeal property is a detached bungalow within an established residential area which, along with neighbouring dwellings either side, has level access onto Wrexham Road. To the rear, these properties are built onto a steep bank. The development comprises a

narrow, decked path leading from a side door in the south elevation of the appeal property to a decking area, elevated above the property's lower garden along the whole of its eastern elevation, and which is wide enough to accommodate outdoor dining and seating areas. It is accessible from that side of the dwelling via two large, glazed openings. Timber stairs at the northern end of the decking give access to the property's lower garden area. The development is screened from Wrexham Road by existing buildings and structures, and is elevated above, and substantially screened by tall trees in views from Capper's Lane to the east, and a nearby public footpath. Accordingly, it is not visually prominent in the wider area.

6. Existing boundary vegetation screens most views towards the dwelling to the north, but at the time of my site visit, a small gap in this vegetation allowed views from the closest part of the decking towards that property's balcony and, more obscurely, towards openings in its rear elevation. However, similar, closer views are available from the appeal property's northern garden area and although the decking is raised, given the narrow view and degree of separation, the scheme would not lead to an unacceptable increase in overlooking towards this property.
7. Due to the decking's easy accessibility from the appeal dwelling, its usable width and wider distant scenic views than are available from that property's paved side patio and shaded lower garden areas, I consider it is likely to be more frequently and regularly used for outdoor dining and seating than the dwelling's other outdoor spaces. However, there is no evidence that the decking's use to date has led to any unacceptable noise at No 26, and there is no reason to believe that the continued use of the decking would intensify or alter associated domestic noise to any appreciable extent than would be experienced at No 26 through the use of the appeal property's closer paved side patio area.
8. I saw at my site visit that there is a broad degree of mutual overlooking between the appeal property and No 26 and I acknowledge that the owners of No 26 do not object to the development as built. However, they do not reside at the property and there is no certainty that the property would always remain in their ownership. I also note support for the scheme from other nearby neighbours, but I saw that their properties are largely screened from its effects or more distantly separated from the development than No 26.
9. Moreover, I observed that from the appeal property's paved side patio area, there are no direct views towards the narrow outside area closest to the rear of No 26 or towards openings in its rear elevation. Furthermore, except at its eastern edge, much of the views from this patio towards the projecting rear patio at No 26 are obscured by its perimeter fence, and by a boundary fence between the two properties. At the time of my site visit, vegetation near the south-eastern corner of the paved patio area, shown on the Council's site photographs, had been replaced by a tall gate, which I saw provides additional screening, near the area where the appellant says there is a right of way over this neighbouring garden.
10. However, from the decking, I saw that there are views, albeit oblique, towards the rear elevation openings at No 26. Owing to the decking's position, depth and elevated form forward of the appeal property's rear elevation, the development allows increased direct views of the rear projecting patio area at No 26 and towards much of the narrow outside area closest to its rear elevation. The harmful effects on privacy from the decking's use would be more prolonged and sustained than the transitory passing backwards and forwards along any right of way across the neighbouring garden. Accordingly, the development considerably reduces neighbouring privacy at No 26 and appreciably increases the sense of overlooking at that property.
11. Albeit that it is intended to increase the balustrade height and fit additional restraint rails, these measures alone would not prevent overlooking. Nevertheless, the submitted

drawings show a 1.7m high screen which the appellant indicates would be obscurely glazed and could, if considered necessary, be provided along a short length of the southeastern part of the decking, up to the southeast corner of the appeal dwelling. Albeit the Council have suggested the screen height should be 1.8m, I saw that a suitably obscure screen extending from deck level to the intended height and width, and positioned as proposed along the southeastern extent of the decking would effectively and appropriately screen views towards the projecting patio area, rear outside space and rear elevation openings at No 26. Whilst this screen would not extend along the decked path, I saw that views towards No 26 from this area would be similar to those which are already available from the window and door openings in the facing south elevation of the appeal dwelling.

12. The decking structure is tall and elevated, but it is separated by some 10m from the neighbouring property. Although the intended privacy screen would be taller than the balustrade height, it would extend for only a short length and would be viewed from No 26 in the context of taller boundary trees. Accordingly, owing to its separation and form, the development would not be overbearing.
13. I conclude that the development would not harm the living conditions of neighbouring occupiers at No 26. It would therefore comply with Wrexham Local Development Plan (LDP) Policy DM1 which says, amongst other things, that development proposals, where relevant, must not have an unacceptable effect on the amenity of the occupiers of nearby properties.

Conditions

14. In the light of the advice within Circular 016/2014 The Use of Planning Conditions for Development Management ('the Circular'), whilst there is no requirement to impose the standard condition relating to the time for commencement as the development is partially retrospective, I consider it is reasonable and necessary that a condition requiring the development to be carried out in accordance with the approved plans be imposed. A condition requiring biodiversity enhancement is necessary to meet national planning policy objectives. I also consider it necessary that a privacy screen is installed in order to protect the privacy of neighbouring occupiers at No 26. However, as no details of the intended degree of obscuration are provided on the submitted drawings I sought the parties' views on a condition to this effect, which I have imposed, with a timescale for its installation balancing the need to procure a suitable screen with the requirement to safeguard neighbouring living conditions given the development is already in use.

Conclusion

15. For the reasons given above, and having taken all matters into account, I conclude that the appeal should be allowed.
16. 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 one or more of the Welsh Minister's wellbeing objectives as required by section 8 of the Act.

N Jones

INSPECTOR

Schedule of Conditions

- 1) The development shall be carried out in accordance with the following approved plans: 05-Site location and site plans WR/PD/05 Rev A, 01-Proposed Elevations WR/PD/01 Rev-B and 03-Proposed Sectional Elevation AA-01 WR/PD/03 Rev-B.

Reason: To ensure the development is carried out in accordance with the approved plans and drawings submitted with the application.

- 2) Within 3 months of the date of this decision, a fixed, obscure glazed privacy screen using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration (or equivalent), rising from deck level to a minimum height of 1.7m for the entirety of its length, shall be installed in the position shown on drawings 01-Proposed Elevations WR/PD/01 Rev-B and 03-Proposed Sectional Elevation AA-01 WR/PD/03 Rev-B. The privacy screen shall be retained as such for the lifetime of the development.

Reason: In order to safeguard the privacy of neighbouring residents and in accordance with Policy DM1 of the Wrexham Local Development Plan (LDP).

- 3) Within 3 months of the date of this decision, a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.