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## Appeal Decision

Site visit made on 28 June 2021

by **L Wilson BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2021

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**Appeal Ref: APP/Z4718/D/21/3274137**

**51 Mill Lane, Hanging Heaton, Batley WF17 6DZ**

- 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 H Fletcher against the decision of Kirklees Metropolitan Council.
  - The application Ref 2020/62/93889/E, dated 13 November 2020, was refused by notice dated 25 February 2021.
  - The development proposed is described as original house exit and seating area was collapsing (was never tied into the property) so replace with decking and stairs.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I noted on my site visit that the development had been carried out. From the evidence before me, it is clear that the proposal is to retain the development that has already occurred, and I have dealt with it on that basis.
3. A similar appeal has also been submitted in relation to the property at 53 Mill Lane<sup>1</sup>. The nature of the appeals overlap and for clarity I have issued a separate decision in relation to each appeal.

### Main Issues

4. The main issues are the effect of the proposal upon:
  - the character and appearance of the host property; and
  - the living conditions of the surrounding properties, having regard to privacy.

### Reasons

#### *Character and appearance*

5. The host property is a mid-terrace dwelling located within an urban area. The appellant highlights that there are no heritage assets within the vicinity of the site.
6. The decking replaces a stone platform and projects across the full width of the property. As a result of the land level differences within the site, the decking is much higher than the garden ground level. I acknowledge that in order to

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<sup>1</sup> APP/Z4718/D/21/3274138

access the garden from the rear door of the property, a raised platform is required.

7. I observed on my site visit that the stone platforms within the terrace respect the materials and blend with the character and appearance of the host dwelling. Based on the evidence before me and having seen the stone platforms within the terrace, the decking area is much larger than the previous platform.
8. The decking results in a discordant, stark addition due to its width, depth and timber posts and rails. The scheme results in a large prominent structure which detracts from the traditional, simple design of the dwelling because of its scale, thick posts and rails and materials which appear at odds to the host building. The height of the decking also exacerbates its prominence. The proposal therefore does not promote good design and is not subservient to the original building.
9. For the reasons given above, the proposal adversely affects the character and appearance of the host dwelling. Consequently, it conflicts with Policy LP24 of the Kirklees Local Plan: Strategy and Policies (2019) (LP) which seeks, amongst other matters, to promote good design and ensure proposals are in keeping with the existing building in terms of scale, materials and details.
10. It also does not comply with chapter 12 of the National Planning Policy Framework (the 'Framework') which promotes good design and requires development to be visually attractive and sympathetic to local character.

#### *Living conditions*

11. No 51 sits higher than the neighbouring terraced dwellings to the west. The appellant asserts that the scheme improves the amenity for future occupiers and does not introduce any further element of overlooking than what already exists at the site. They also state that the decking is in the same position as the stone platform and the impact on amenity is identical to the existing situation.
12. The decking cannot be directly compared to the stone platform. Based on the evidence provided, the decking creates a larger elevated area than the previous stone platform. Decking is often used as an area to sit and creates a formal amenity area where people can gather. On my site visit I observed that there was a table and chair situated on the decking which demonstrates that it is an area where people would sit. On the other hand, the stone platform simply served as a means of access to the rear garden and whilst views of other gardens would have been possible, it is unlikely that occupiers would have spent much time within that area.
13. Due to the height of the decking, direct views of the gardens of the terrace which the appeal site forms part of are possible. These dwellings have modest rear gardens. The decking leads to a significant degree of overlooking of the gardens of the dwellings in the terrace and results in a material loss of privacy for the occupiers, particularly Nos 49 and 53 Mill Lane.
14. I acknowledge that there is an almost identical proposal at No 53 and it appears that the current occupiers of No 53 consider the scheme to be acceptable. However, the role of the planning system is to consider the effects of the development on both the current and any prospective future occupiers.

Although there is mutual overlooking between the properties, the scheme results in all of No 53's rear outdoor space being overlooked.

15. The Council are concerned that the proposal has a harmful impact upon the occupiers of 6 New Street as the decking provides direct views into the rear, first-floor windows which serve habitable rooms. The appellant highlights that the occupiers of No 6 assisted the appellant in the design and installation of the decking.
16. The rear, first floor windows of No 6 overlook the rear garden of the appeal site. There is a reasonable separation distance between the decking and these windows, particularly in an urban area such as this. In addition, the existing trees to the rear of No 6's garden restrict views to the first-floor windows. I am satisfied that the proposal does not adversely affect the living conditions of the occupiers of No 6 to a degree that would warrant planning permission being refused due to the distance between the windows and decking.
17. The appellant has suggested a condition to require screening to address this main issue. I do not consider that screening would be an acceptable solution as it would increase the dominance of the scheme and would further detract from the character and appearance of the host building.
18. For the reasons given above, despite no objections being raised by neighbours, the proposal results in the living conditions of the surrounding properties being adversely affected by a loss of privacy and overlooking. Accordingly, it conflicts with Policy LP24 of the LP which seeks, amongst other matters, to ensure proposals provide a high standard of amenity for neighbouring occupiers.

*Other matters*

19. The appellant states that numerous examples of decking can be found in the vicinity of the appeal site. However, they have not specified where. On my site visit I observed decking was not a common feature and most of the terraced dwellings had simply a stone platform and steps to access the rear garden. In any event, I have determined the appeal on its planning merits.
20. The appellant also states that the proposal comprises sustainable development. The development does not form sustainable development, as defined by the Framework, given the harm identified.

**Conclusion**

21. The proposal therefore conflicts with the development plan and there are no other considerations that outweigh this conflict.
22. For the reasons given above the appeal should be dismissed.

*L M Wilson*

INSPECTOR