The Planning Inspectorate

# Appeal Decision

Site visit made on 3 July 2012

**by Michael R Moffoot DipTP MRTPI DipMgt MCMI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 July 2012**

**Appeal Ref: APP/H1033/D/12/2176426**
**66 Laneside Road, New Mills, High Peak, Derbyshire SK22 4LX**

- 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 Will House against the decision of High Peak Borough Council.
- The application Ref HPK/2011/0682 was refused by notice dated 29 February 2012.
- The development proposed is a rear decking area.

## Procedural Matter

1. Although representations from some residents refer to the existing decking that has been constructed on the appeal site, the refused scheme proposes a different, two-tier structure, and I shall confine my considerations to this development.

## Decision

2. The appeal is dismissed.

## Main Issues

3. The main issues are the effect of the proposed development on firstly, the living conditions of neighbouring occupiers, with particular reference to privacy and outlook; and secondly, the character and appearance of the area.

## Reasons

4. The appeal site is a two-storey, mid-terrace dwelling with a patio at the rear. Beneath the existing decking the garden slopes down steeply to a boundary wall adjoining open fields. The neighbouring properties also have patios and lower level terraced garden areas to the rear and No 68 has a conservatory.

5. The proposed two-tier decking would extend from the rear of the existing patio and cover almost all of the remaining garden area. The upper deck would provide direct views at close quarters over the adjoining patio at No 64 and the conservatory and patio to the rear of No 68. As a consequence, the neighbours' privacy would be severely compromised, and I am not convinced that a condition requiring fencing or other screening on the boundaries would overcome this concern without compromising the neighbours' outlook. The lower decking area would be about 1.3 metres above ground level, and those using it would be able to directly overlook the adjoining lower level gardens to the detriment of the occupiers' privacy.

6. The scale and height of the decking and its proximity to adjoining gardens would result in an overbearing structure that would seriously prejudice the neighbours' outlook. These factors reinforce my view that the development is unacceptable.

7. In coming to these findings I acknowledge that some degree of mutual overlooking already occurs between properties on this section of Laneside Road due to the tight-knit pattern of housing, private rights of way and variation in garden levels. However this does not justify the appeal proposal, which would severely harm the living conditions of neighbouring occupiers contrary to objectives in Policies GD5 and H14 of the *High Peak Local Plan* that seek to safeguard residents' amenities.

8. I now turn to the effect of the proposed development on the character and appearance of the area. From various viewpoints on the public footpath to the south-west of the site the structure would be observed against a backdrop of residential properties and a variety of extensions, outbuildings, patios and other domestic paraphernalia. In this context and given the separation distances between the site and footpath, the decking would not be an unduly intrusive or incongruous feature that would materially harm the visual amenity of the locality or the wider landscape. As such, it would not be detrimental to the character and appearance of the area, and would not therefore conflict with the relevant objectives in Policy GD4 of the Local Plan.

**Other Matters**

9. I appreciate that the slope of the garden and its proximity to a field which contains horses could render the space unsafe for the appellant's child to play in. However, I see no reason why these concerns could not be overcome by measures to adapt the garden for play and improving the fencing. Other matters, including safety, litter, property value and maintenance are unrelated to the planning merits of the case.

**Conclusions**

10. The proposal would not be detrimental to the character and appearance of the area but would seriously harm neighbours' living conditions, and as such would be contrary to the development plan. None of the other matters raised are sufficient to outweigh the harm caused and the conflict with the development plan that would arise. For the reasons set out above, I conclude that the proposal is unacceptable and the appeal should fail.

*Michael R. Moffoot*

Inspector