



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 25/05/21

gan **Melissa Hall, BA (Hons), BTP, MSc, MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 27/7/21

Appeal Decision

Site visit made on 25/05/21

by **Melissa Hall, BA (Hons), BTP, MSc, MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 27/7/21

Appeal Ref: APP/X6910/C/21/3268852

Site address: 1 Hawthorne Glade, Tanglewood, Blaina, Gwent, NP13 3JT

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Jamie Davies against an enforcement notice issued by Blaenau Gwent County Borough Council.
 - The enforcement notice was issued on 18 January 2021.
 - The breach of planning control as alleged in the notice is '*Without planning permission, the construction of steel framed raised decking*'.
 - The requirements of the notice are '*Remove the unauthorised steel framed raised decking*'.
 - The period for compliance with the requirements is 3 months from the date the Notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. I dismiss the appeal, uphold the Enforcement Notice (the EN) and refuse to grant planning permission on the application deemed to have been made.

Procedural Matters

2. The appellant has submitted drawings with the appeal which show the raised decking wrapping around the side and rear garden, adjacent to the boundaries with the highway and the garden of 15 Tanglewood Drive. At my site visit, I observed that it is only the area of decking along the southern side boundary adjacent to the highway that has been constructed and it stops short of the common boundary with No 15. Hence, the drawings clearly show prospective works that go beyond the remit of my consideration under ground (a) which is limited to the unauthorised works that have already taken place.
 3. The appellant states that the red line drawn on the Plan which accompanies the EN is incorrect. I note from the submitted drawings that the appellant's land ownership extends up to the back edge of the footway and includes the existing area of landscaping between the footway and the fence line. However, I am satisfied that the Plan that accompanies the EN clearly identifies the area of land upon which the unauthorised works have taken place.
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The appeal on ground (a) / deemed planning application

4. An appeal on ground (a) is that planning permission should be granted. The main issues are the effect of the development on the character and appearance of the area and on the living conditions of neighbours.

Character and appearance

5. The appeal site is located within a modern residential estate. The property is positioned on the corner of Hawthorne Glade with its side and rear garden facing the estate's main access road of Tanglewood Drive and the side property boundary of 15 Tanglewood Drive, respectively.
6. The garden of the appeal site slopes steeply from an area of lawn that is level with the rear and side of the dwelling down to the existing fence line. Thus, the raised decking extends from the part of the garden that is at a higher ground level, creating a void underneath the steel frame where the land drops away. The effect of these works is that the decking is elevated above the fence which runs along the original ground level of the side property boundary. A further fence is positioned on top of the decking parallel with the side property boundary. Consequently, the void, the steel structure, the decking and the fencing atop can be seen from public vantage points along the highway.
7. That is, it reads as a substantial and imposing structure when viewed from the public realm and looks out of place in the context of its surroundings. Its elevated position above the line of the boundary fence appears awkward and contrived. It therefore has a harmful effect on the character and appearance of the area, in conflict with Policy DM1 of the adopted Blaenau Gwent Local Development Plan (LDP) 2012 which *inter alia* requires new development to have no unacceptable adverse visual impact. It would also be at odds with the thrust of the Council's adopted Supplementary Planning Guidance Note 7 '*Raised Decks, Balconies and Retaining Walls*' 2016 (SPG) insofar as its scale and massing fails to respect the appearance of the street scene.
8. I note the appellant's contention that there is an existing area of mature landscaping between the decking and the highway which would eventually provide screening and could be supplemented with further planting if required. Be that as it may, I do not consider that screening would satisfactorily mitigate the visual harm associated with the development.

Living conditions

9. I observed that the raised decking overlooks the front garden of No. 15 at a closer proximity and at an elevated vantage point (approximately in line with the first floor level of the neighbouring property) compared to that associated with the original ground levels of the garden. The Council acknowledges that the window in the side elevation of the neighbouring property facing the appeal site may not be a habitable room window.
10. Whilst I agree that the finished decking shown on the submitted plans would give a direct view of the private amenity space to the rear of the neighbouring property from an unacceptably close distance, exacerbating the degree of overlooking currently experienced, the part of the scheme that I am considering under this appeal does not. Rather, the decking is adjacent to the front garden of No. 15, which is open to the highway and thus affords its occupants a lesser degree of privacy than is the case with the enclosed garden to the rear. Although the decking is elevated to a height somewhere in line with the first floor, the habitable room windows on the front

elevation of No. 15 are positioned at an oblique angle relative to the decking and the structure does not currently extend up to the common boundary. Hence, I do not consider that the development, as constructed, has an unacceptable impact on the neighbours' living conditions that could justify the refusal of planning permission on this basis. Accordingly, I do not find conflict with LDP Policy DM1 or the SPG in respect of this matter.

Other matters

11. The appellant makes reference to the objective in the LDP of new developments meeting the needs of families. I also appreciate that the site's topography renders it difficult to improve and make better use of the sloping part of the garden and that the materials used in the construction of the decking are of high quality. Be that as it may, these matters do not outweigh the harm to the character and appearance of the area in the balance of acceptability.
12. I also do not dispute the appellant's contention that owing to the topography of the surrounding area, there is a degree of overlooking between neighbouring properties over and above that normally expected in modern residential estates such as this. I saw examples of raised decking of varying scale and form in the wider estate, albeit I am not aware of the circumstances which resulted in their coming into being or whether planning permission has been granted in each case. However, I am required to determine the appeal on its own merits and these matters do not justify what is otherwise an unacceptable form of development for the reasons I have already given.

Conclusion

13. In conclusion, the appeal is unsuccessful on ground (a) and the EN is upheld. I refuse to grant planning permission on the deemed application.
14. 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 of making our cities, towns and villages even better places in which to live and work.

Melissa Hall

INSPECTOR