



# Appeal Decision

Site visit made on 22 March 2022

**by R Hitchcock BSc(Hons) DipCD MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 28 March 2022**

---

**Appeal Ref: APP/T2350/W/21/3286213**

**1 The Hazels, Wilpshire, Blackburn, Lancashire BB1 9HZ**

- 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 Mrs Hilary McCumiskey against the decision of Ribble Valley Borough Council.
  - The application Ref 3/2021/0785, dated 28 July 2021, was refused by notice dated 15 October 2021.
  - The development proposed is 'I plan to reinforce the flat roof over my double garage, cover it with firestone EDPM rubber and create a patio with 1.150m high glass balustrade, accessed by wooden steps from the garden'.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. At the time of my site inspection a development as shown on the appeal plans had commenced through the installation of a flight of steps to the rear of the garage. The planning permission sought is therefore, in part, one under s73A of the Act for development already carried out.

## Main Issue

3. The main issue is the effect of the development on the living conditions of neighbouring residents at 2 The Hazels, with particular regard to overlooking and loss of privacy.

## Reasons

4. The site consists of a detached dormer bungalow with attached double garage and gardens to the front, side and rear. The house is located on a sloping corner plot close to the entrance of a residential cul-de-sac and adjoins other residential properties.
5. The scheme proposes the use of the existing flat roof of the garage as a balcony/patio area. The roof can be accessed by the flight of wooden steps from the rear garden. A glass balustrade would be erected about the roof edge to provide for safe use.
6. The garage lies close to the common boundary with 2 The Hawthorns, a 2-storey detached house with a conservatory extension projecting into its rear garden. The boundary is marked by an open board timber fence. This is augmented by some vegetation within the appeal site on the initial part of the boundary behind the line of the garage.

7. The use of the flat roof and access steps would facilitate elevated views over the existing boundary. This would provide close views to the sensitive area immediately behind the neighbouring dwelling and into the conservatory. It would increase the level of overlooking of the neighbouring property and result in significant harm to the living conditions of its residents through loss of privacy.
8. At my site visit, I saw that similar views, albeit at slightly greater distance, could be obtained across the open-style boundary fence from the higher rear part of the garden of the appeal site. Such views are reciprocated to the back of the appeal house from a summer house within the garden of No2. However, in contrast to the proposed development, those views could be largely restricted by the use of alternative domestic scale boundary treatments. They are therefore distinct from the circumstances of the appeal proposal.
9. Pursuant to Paragraph 55 of the National Planning Policy Framework (the Framework), the Council have indicated that a condition requiring the erection of a privacy screen along the western boundary of the development at a height of not less than 5.5m above the ground level could make the proposal acceptable in planning terms. However, views can be obtained from across both the side and rear of the rooftop and from the access steps. There is little before me to demonstrate that a suitable screen preventing elevated views across the neighbouring property could be provided without causing other effects on nearby living conditions or an adverse impact on the character and appearance of development in the locality.
10. Such a condition may result in a form of development that could conflict with the requirements of the development plan. In the absence of demonstration otherwise, it could therefore nullify the benefit of any permission it was attached to. This would fail the test of reasonableness referred to in Paragraph 56 of the Framework.
11. In support of the proposal the appellant refers me to the outlook afforded by a first-floor window in the side gable of the house which lies adjacent to and above the proposed balcony area. This permits some outward views across parts of the neighbour's rear garden area. However, those views are much more contained. The combination of the rear corner of the neighbouring building and a tall evergreen bush within the neighbouring site screens much of the area immediately to the back of the house and most of the conservatory. Although I have taken the view from that window into account, it does not provide a justification for increasing the level of overlooking of the sensitive area.
12. The appellant also refers me to a number of other balconies in the locality. A balcony at 2 the Hazels is located to the front where close views are primarily only over semi-private spaces at the front of properties, or at greater distance than the appeal scheme. It is unclear if a balcony above the garage at 3 The Hazels benefits from planning permission. However, precedent is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations.
13. I note the Council's report in relation to a proposed development above the garage in 2006. However, there is little detail of that scheme before me. I am therefore unable to draw comparisons to it or conclude that it provides a

legitimate reason for permitting a development that would give rise to increased overlooking of the neighbouring property.

14. For the above reasons, I find that the proposal would cause significant harm to the living conditions of neighbouring residents at 2 The Hazels through overlooking of the private amenity space and a conservatory to the rear of that dwelling. It would conflict with Policy DMG1 of the Local Plan for Ribble Valley Core Strategy 2008-2028 [2014] as it seeks development to be sympathetic to existing land uses, not adversely affect the amenities of the surrounding area and provide adequate privacy distances.

### **Other Matters**

15. I note the appellant's contention that the development was not seen first-hand by the Council before making its decision. However, this is not a matter for this appeal, which I have determined on its own merits.
16. I acknowledge that the proposal would facilitate views across the Ribble Valley for the appellant, however, this is not a benefit in favour of the development.

### **Conclusion**

17. The proposal would harm the living conditions of neighbouring residents and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not be allowed.

*R Hitchcock*

INSPECTOR