



## Appeal Decision

Site visit made on 21 February 2017

**by Michael Evans BA MA MPhil DipTP MRTPI**

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

Decision date: 9<sup>th</sup> March 2017

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**Appeal Ref: APP/T1410/D/16/3165717**

**65 Moy Avenue, Eastbourne BN22 8UQ**

- 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 Natalie Edwards against the decision of Eastbourne Borough Council.
  - The application Ref PC/160677 was refused by notice dated 13 October 2016.
  - The development proposed is to erect raised decking to the rear of the property.
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### Decision

1. The appeal is allowed and planning permission is granted to erect raised decking to the rear of the property, at 65 Moy Avenue, Eastbourne BN22 8UQ, in accordance with the terms of the application, Ref PC/160677, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved drawing labelled '3rd draft' showing a front elevation, side elevation and top elevation all at a scale of 1:50.
  - 3) Prior to the decking hereby permitted being brought into use, the privacy screens with a height of 1.8m above the decking shall be erected in accordance with the approved plans and thereafter be retained as such.

### Main issues

2. The main issues in this appeal are:
  - The effect on the living conditions of the occupiers of the adjacent dwelling at 67 Moy Avenue, with regard to sunlight, daylight, overlooking and whether the development would be overbearing.
  - The effect on the character and appearance of the host dwelling and locality.

### Reasons

3. The semi-detached host dwelling has a single storey rear extension which, according to the Council, projects a total of 5m. It extends 3m along the boundary with the attached dwelling at no. 67 and then tapers so that the end
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is set back 2m. The proposal would result in a terrace being created on a rectangular area of decking 1.1m above the level of the garden. This would be attached to the end of the existing extension and project a further 3m. Privacy screens along the sides adjacent to the neighbouring gardens would rise 1.8m above the decking. There would be centrally located steps down to the garden at the end, extending a further 2m with a width of 2m.

4. There is a 2m high fence along the part of the boundary with no. 67 that would be adjacent to the proposed structure. The top of the privacy screen at this side, with a height above ground level of 2.9m, would only project above the fence to a fairly modest degree. As a result the additional bulk visible from no. 67 would be relatively limited. Moreover, it would be at a distance of 2.3m from the boundary. In these circumstances the development would not result in any significant reduction in outlook from the lounge window, or within the garden at the neighbouring property despite its lower ground level. The development would not therefore be overbearing.
5. The fairly modest height and set back from the boundary would also ensure there was no undue loss of sunlight or daylight. The position and height of the privacy screens would prevent any unacceptable overlooking of the adjacent properties. To ensure this a condition could be imposed requiring the screens to be erected and retained.
6. In consequence there would be no detrimental effect in relation to any of these matters, even taking into account the cumulative effect of the previously approved extension. It is therefore concluded that the living conditions of the adjacent occupiers would not be harmed. Given the relationships that I have found this would be the case even if the existing vegetation in the vicinity were to die or be removed.
7. There would be no conflict with Eastbourne Borough Plan 2001-2011 Policy HO20, the aims of which include matters such as preventing an unacceptable loss of outlook and light. There would also be compliance with the aim of Core Strategy Local Plan Policy B2 to protect the residential amenity of existing residents. The development would satisfy the core principle of the National Planning Policy Framework (The Framework) that planning should always seek to secure a good standard of amenity for existing occupants of buildings.
8. The maximum height of the new structure would be 2.9m but only to the sides for a depth of 3m. The top of the balustrade at the end would be significantly lower. There would also be a gap of 2m at the rear with nothing above a height of 1.1m to allow use of the steps. Despite its width of 8m, the development would, as a result, be of a fairly modest scale, mass and bulk.
9. This would be the case even if considered cumulatively with the attached single storey extension. The latter would be noticeably taller and bulkier, with the proposed development being highly subordinate to it. Moreover, the resultant appearance would reflect the rear extension and decking permitted by the Council and subsequently constructed at 61 Moy Avenue.
10. In consequence, the development would be appropriate and sympathetic in its relationship with the host dwelling, the adjacent properties and their settings. As a result, the character and appearance of the host dwelling and locality would not be harmed. Core Strategy Local Plan Policy D10A intends that new development should make a positive contribution to the townscape and must

respect, preserve or enhance local character. This would be satisfied, with the proposal adding visual interest at the back of the property due to the additional vertical and horizontal articulation. There would also be compliance with the core planning principle of the Framework that planning should seek to secure high quality design.

11. I note that a previous application for an extension and decking was refused with the subsequent appeal being dismissed. The Council's report indicates that the decking in this case was adjacent to the boundary, as opposed to the current scheme where it would be set back significantly. In any event, I must consider this appeal on its own merits.

12. Taking account of all other matters raised, there is no reason to reject the proposal given the absence of harm and the appeal succeeds. In reaching this decision I have considered the representations made by residents.

13. A condition specifying the approved plans is necessary to provide certainty in addition to that concerning the privacy screens referred to above.

*M Evans*

INSPECTOR