

Appeal Decision

Site visit made on 26 September 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 04 October 2016

Appeal Ref: APP/V2004/D/16/3155630

35 Kielder Way, Kingston upon Hull, East Yorkshire HU7 3BP

- 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 A Simpson against the decision of Kingston-upon-Hull City Council.
 - The application Ref 16/00678/FULL, dated 8 May 2016, was refused by notice dated 12 July 2016.
 - The development proposed is a first floor balcony to front of building facing the River Hull, 4 x 1.8 metres.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the neighbouring occupants at Nos 33 and 37 Kielder Way, with particular regard to overlooking, privacy and noise.

Reasons

3. The appeal site is a three-storey mid terrace town house, which is afforded views over the River Hull. The site is located in a new housing development and the immediate locality consists of dwellings of a mixed architectural style and scale. The terrace, within which the appeal site is located, consists of four town houses, with all but the appeal site having a Juliet balcony to the patio doors located on the first floor. It was apparent from my site visit that none of the dwellings within either the terrace or within the wider housing development have balconies on the front elevations.
 4. The proposal is to erect a first floor balcony, which the appellant states would allow vistas of the River Hull to be enjoyed. Although relatively modest in depth, the balcony would be sufficiently wide enough to provide a platform on which people would be able to stand or sit out on.
 5. I note that the windows of Nos 33 and 37 would be approximately between 1.8 and 2.0 metres from the proposed balcony. I accept that noise, and therefore possible disturbance, to neighbouring dwellings may already be experienced to a degree when any of the existing patio doors on any one of the four dwellings within the terrace are open.
-

6. However, given the likelihood of the balcony being used for extended periods of time, and the proximity to the windows of Nos 33 and 37, I consider that the proposal would result in a significant increase in noise and disturbance for the neighbouring occupiers. Furthermore, such noise and disturbance is likely to escalate during the warmer months when use of the balcony is likely to increase and neighbouring dwellings are more likely to have windows open into the evening.
7. Consequently the proposal would in my view result in a harmful effect on the living conditions of the occupiers of Nos 33 and 37 with particular regard to noise.
8. Turning my attention to overlooking and privacy, I note that obscure glazed panels of a significant height would be placed at each end of the balcony. I accept that due to the use of obscure glazing any direct overlooking towards the neighbouring dwellings would be prevented. As such, as the level of any overlooking would be minimal, I do not consider that the proposal would have any significant impact on the living conditions of the occupiers, with particular regard to privacy.
9. The appellant has drawn my attention to photographic examples of balconies on houses within other towns and cities and has also provided details of balconies granted planning permission by Hull City Council. However, from the limited information provided I cannot be certain that their particular circumstances are the same as, or are very similar to, the appeal scheme. In any event each proposal should be assessed on its own merits, as I have done in this instance.
10. Accordingly, despite my finding with regards to overlooking and privacy, I find that the proposed balcony would unacceptably harm the living conditions of Nos 33 and 37 with particular regard to noise. Accordingly, the proposal would conflict with Saved Policy G1 of the Hull City Plan 2000, Policies BE1 and BE5 of the Joint Structure Plan for Kingston Upon Hull and the East Riding of Yorkshire 2005 and guidance within Hull City Council's Supplementary Planning Guidance Note 5 – Designing a house extension. Taken together these policies and guidance, amongst other things, seek to ensure that development proposals resolve detailed planning considerations with particular regard to amenity.
11. In addition, the proposal would fail to adhere to a core principle of the National Planning Policy Framework, which is to secure a good standard of amenity for all occupiers of land and buildings.

Conclusion

12. For the above reasons, and having regards to all matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR