

Appeal Decision

Site visit made on 15 November 2016

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 25 November 2016

Appeal Ref: APP/Z0116/D/16/3156981
68 Linden Road, Westbury Park BS6 7RR

- 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 Wendy Turner against the decision of Bristol City Council.
 - The application Ref 16/01495/H, dated 11 March 2016, was refused by notice dated 8 June 2016.
 - The development proposed is a retrospective application to replace existing porch and staircase with a balcony and a new staircase.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have used the description of the proposal from the Council's decision notice. This adequately describes the proposed development instead of the much longer and detailed description given in the application form.
3. At the time of my site visit, the replacement balcony and steps were already in place. Trellising was also affixed to the north west side of the balcony. This latter element is not shown on the plans accompanying the planning application made to the Council. I have therefore determined this appeal on the basis of the existing balcony and steps, with and without the trellis screening.

Main Issue

4. The main issue in this case is the effect of the development on the living conditions of neighbouring residents with particular reference to privacy and noise.

Reasons

5. The balcony is situated at the rear of the host terrace property at internal main ground floor level but because of the topography of the area it is elevated above the lower ground floor level at the rear, thereby offering elevated views towards the neighbouring properties.
 6. I accept that some overlooking would be achieved towards No 70 Linden Road from the side utility window and from the steps previously in place leading down to the garden and that within a terrace such as this there is a degree of mutual overlooking. However, the current arrangement brings the opportunity for overlooking much closer to No 70 whilst the use of a balcony offers a
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considerably wider field of view and likely results in much greater dwell time. Using the balcony would also more obviously and more conspicuously announce the possibility of overlooking than those casually looking from a window or using the steps.

7. I appreciate that efforts have been made to minimise overlooking by the provision of trellis screens on the side of the balcony. However, whilst this is necessary to preclude views back towards the habitable room windows of No 70, the trellising does not prevent significant overlooking into the majority of the rear garden of that property. This would remain the case if the screens were obscure glazed rather than trellising. For these reasons I do not consider that this is a situation as envisaged by paragraph 203 of the National Planning Policy Framework (the Framework) where otherwise unacceptable development could be made acceptable through the use of conditions.
8. My attention has been drawn to an appeal decision¹ in the London Borough of Lewisham, however, I note that the balcony in that case was a replacement of a previous, albeit smaller balcony and that the neighbouring property and others in the vicinity had balconies similar to the one proposed. The circumstances of that case are not therefore comparable to the situation of the appeal terrace where I was unable to observe any other balcony.
9. I accept that the Council did not raise concern regarding the design of the balcony as shown on the refused plans and that the trellising as subsequently added would be less visually imposing than a solid wall. Nevertheless, because of the height and extent of the trellising relative to the garden level of No 70, it does appear visually intrusive and somewhat odd when viewed from that property, despite being off-set from the boundary.
10. In terms of the effect on No 66 Linden Road, the existing two storey rear extension, which straddles the common boundary in this location, restricts overlooking to the rear part of the garden of that property and the level of harm arising is not sufficient on its own to warrant withholding planning permission. Nevertheless, there is harm and this adds further to my above stated concerns in relation to No 70.
11. I am not convinced that the use of the balcony would result in a material increase in noise and disturbance over and above that of a decked area or patio positioned at ground level.
12. I appreciate the appellant's wish to improve the family living space and that paragraph 9 of the Framework supports improving the conditions in which people live. However, the benefits to the appellants are at the cost of a substantial degree of harm to the living conditions of neighbouring occupants. On the basis of this harm the development does not meet the social dimension of sustainability and as such would not amount to sustainable development, having regard to the advice at paragraph 7 of the Framework. Not being sustainable, it follows that no such presumption, as anticipated in paragraph 14, applies.
13. I therefore conclude that even with the trellising in place, the use of the balcony would result in a significant level of actual and perceived overlooking and loss of privacy, resulting in considerable harm to the living conditions of the occupants of No 70 and to a lesser extent No 60. Accordingly the proposed

¹ Appeal Ref: APP/G5180/D/15/3140577

development is contrary to Policy BCS21 of the Bristol Development Framework Core Strategy and Policy DM30 of the Site Allocations and Development Management Policies Local Plan. These require, amongst other matters, that extensions and alterations to existing buildings safeguard the amenity of neighbouring occupiers.

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Richard S Jones

Inspector