

Appeal Decision

Site visit made on 7 December 2016

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 20th December 2016

Appeal Ref: APP/R0660/D/16/3158376
75 Meadow Drive, Prestbury SK10 4EY

- 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 Howard Kennerley against the decision of Cheshire East Council.
 - The application Ref 16/2035M, dated 25 April 2016, was refused by notice dated 20 June 2016.
 - The development proposed was originally described as "Pitched/flat roof alterations including new sliding doors to replace window to bedroom 3 & balcony formed with screening to match existing approved balcony (retrospective) – resubmission of 15/5385M".
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The planning application, the subject of this appeal, has been dealt with by the Council as being retrospective. I observed that works associated with submitted plan 11/925 02 Rev C had largely been carried out. However, the screening identified on the balcony to Bedroom 3 had not been installed at the time of my visit. Therefore, for the avoidance of doubt, I confirm that my determination of the appeal is based on the drawings submitted as well as the works already carried out.

Main Issue

3. The main issue is the effect of the development on the living conditions of the occupants of 73 Meadow Drive, with particular regard to privacy and outlook.

Reasons

4. 75 Meadow Drive is a large detached house set within spacious grounds. The area is predominantly residential and is characterised by similarly large dwellings of a variety of styles and ages in sizeable plots.
 5. The main difference between the permitted scheme and that which has been built is the construction of a flat roof outside Bedroom 3, which mainly serves as a balcony. This is accessed from full length sliding doors which would have been bedroom windows of about half the height. The balcony is set back from the rear building line of the house and is roughly level with the side wall of No 73. This provides clear and unobstructed views across and down into the large garden and patio of the neighbouring property. While the existing wicker
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screen would be replaced, this currently does little to restrict views into the patio or provide comfort to the occupants of No 73 that their privacy is being protected.

6. Some level of overlooking into gardens is inevitable in a residential area, particularly where the garden and patio is as extensive as the one here. However, this does not mean that all forms of overlooking should be considered acceptable. There is little doubt that the elevated position of the balcony in such close proximity to the common boundary has an unacceptable impact on the actual and perceived privacy of those using the patio and garden of No 73.
7. I was able to observe the balcony from the garden of No 73. Given its height and position set back from the building line of the host dwelling, it is located largely to rear of the neighbouring amenity space. This results in the balcony having a somewhat looming presence over the patio area. Consequently, it has an unacceptable overbearing and oppressive effect on the amenity space of No 73.
8. The appellant has proposed to limit the usable extent of the balcony to 1.2m from the rear wall and to install a different form of screening across the full depth of the existing balcony. Examples of different solutions have been given and this could have been addressed by condition had I been minded to allow the appeal. I recognise that these measures would provide some level of mitigation in terms of being able to see directly into the neighbouring space.
9. However, the balcony would still be usable and it is unlikely that any form of screening would nullify the perceived effect on privacy and the generally unneighbourly and overbearing effect resulting from the relationship between the development and amenity space. The screening is unlikely to be sufficient to stop people in the garden being aware of the presence of people using the space and creating an unwelcome feeling of being observed. The proposed screening would also do nothing to reduce the physical prominence of the structure. Taken together, I consider the development would continue to tangibly diminish the enjoyment of the garden and patio space for the occupants of No 73 to the detriment of their living conditions.
10. I recognise the approved scheme included bedroom windows in the same location as the full length doors and that these would provide some opportunity for views into the neighbouring property. These would be at a more oblique angle than would be possible from the balcony. There would also be a material difference between the perception of being overlooked from the limitations of a bedroom window and that which is possible from the more open balcony and flexible balcony area. The permitted scheme would also have less of an overbearing presence on the space below.
11. I appreciate that there is a permitted balcony to Bedroom 1, which also provides an existing opportunity to overlook the neighbours garden and patio. Again, a wicker screen is currently in place, but the evidence indicates the earlier permission required a different approach to screening that has not been implemented. While the Council may have accepted that a screen would be sufficient for this balcony, I am mindful that this is further from the patio than Bedroom 3 and further forward, thus reducing the extent of the amenity space that can be seen. Neither does it have the same physical relationship with the

garden of No 73 in terms of the overbearing impact of the structure and oppressive location above their private space.

12. The balcony to Bedroom 2 is of a similar scale to that proposed for Bedroom 3. The nature of the amenity space to No 77 is not the same as that at No 73, with only a narrow strip of land to the side of the dwelling being visible. There are no issues of overlooking between properties on this side of the dwelling. Therefore, this provides no justification for the balcony for Bedroom 3.
13. In conclusion, I find that the development would have an unacceptable impact on the living conditions of the occupants of No 73 both in terms of loss of privacy and outlook. Accordingly, there would be conflict with saved policy DC3 of the Macclesfield Local Plan (2004) which seeks to resist development that would lead to loss of privacy or has an overbearing effect.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR