

Appeal Decision

Site visit made on 3 February 2017

by John D Allan BA(Hons) BTP MRTPI

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

Decision date: 13 February 2017

Appeal Ref: APP/Y3940/D/16/3164627

Holmlea, Portland Avenue, Salisbury, SP2 8BS

- 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 & Mrs P Ward against the decision of Wiltshire Council.
 - The application Ref 16/09872/FUL, dated 11 October 2016, was refused by notice dated 24 November 2016.
 - The development proposed is 2 No rear balconies.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal upon the living conditions of the adjoining occupiers at the properties known as Winstone and Southover, with particular regard to privacy.

Reasons

3. The appeal property is a recently constructed and occupied replacement detached dwelling set along the south side of Portland Avenue, a private no-through road. The neighbouring properties are Winstone to the west, and Southover to the east.
 4. The main rear wall to the existing dwelling is recessed behind 'wing walls' which project either side to a depth of around 1575mm. Two bedrooms span the width of the property at first floor to the rear, each with full length glazed openings which include inward opening doors. The permitted scheme for the replacement dwelling allows for Juliet-balconies to be fitted externally to the door openings. At the time of my visit these were not in situ. The appeal proposal is to construct two balconies in lieu of the Juliet-balconies, each to a depth of 1000mm.
 5. During my visit I was able to view the outlook from the existing window and door openings to the bedrooms. In each case there were expansive views obliquely across the lower parts of both fairly extensive neighbouring gardens,
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typical of the mutual overlooking that is commonly experienced between neighbouring properties.

6. Winstone, to the west, is set noticeably forward of Holmlea. There would be no opportunity to gain any line of sight directly back towards the rear elevation of Winstone from either of the proposed balconies. There would clearly be an increased span of outlook from anyone using the balcony spaces due to their more forward position relative to the existing bedroom windows/doors. However, this would offer limited additional intrusion over the garden space to Winstone due principally to the recessed position of a detached garage in the neighbouring plot that is set close to the side common boundary between both properties. Importantly, I saw that the rear patio area to Winstone is contained and enclosed by the flank elevation of the garage and the rear wall of the main dwelling. When stood in this space I could detect no potential for this area to be overlooked from anyone using either of the balcony spaces.
7. On the opposite side, the rear elevation to Southover is just marginally behind the furthest extent of the nearest wing wall to Holmlea. For this reason there would again be no opportunity to look directly back towards the rear elevation of Southover from either of the balconies. However, contrary to the appellants' assertion, I was struck by how visible the westerly balcony would be from parts of the patio area adjacent to the rear elevation of Southover. I have noted the appellants' *Figure 1* drawing which purports to show sightlines from the proposed balconies. However, this does not show the uninterrupted line of sight towards Southover that could be had from the furthest point of the proposed balcony to Bedroom 1. This would be at a much more acute angle than anything depicted and in my assessment would have the capacity to overlook a reasonably significant part of the neighbours' rear patio. I estimate that the nearest area of patio would be within approximately 12m from the furthest point of the balcony with clear views from here over this neighbouring space and beyond. In my opinion this would not be adequate distance to avoid a serious incursion into the level of privacy the neighbouring occupiers might reasonably expect to enjoy in a part of their garden area so close to the rear of their property.
8. I have noted the two appeal examples that were quoted by the appellants' to support their original application. The precise circumstances of either case are unknown to me. However, in the Lancaster case (Ref APP/A2335/D/16/3152091) the Inspector found that the privacy screens that were proposed for the balcony would have prevented any direct overlooking of the more private patio areas of the neighbouring properties. This is not the case in this instance for the reasons I have explained.
9. In the West Drayton case (Ref APP/R5510/C/15/3136943) I note the proposed balcony was just around 700mm deep and with a limited width. The Inspector considered it unlikely that occupiers of that appeal property would sit out on the balcony and that its use would be occasional and for only short periods. The dimensions of the proposed balconies at Holmlea are noticeably larger. For example, at 1000mm deep and 43250mm wide the balcony to Bedroom 1 would lend itself to accommodating at least a small table and two chairs, as is recognised within the original application's supporting statement. This could encourage use for reasonably long periods. Whilst use of the balcony may be

seasonal this would be likely to coincide when neighbours' would be equally enjoying their own outside space.

10. From the limited information I have available to me I find little comparison between the current appeal proposal and the appeal cases that have been referred to me.
11. I have noted concern with respect to the potential for noise nuisance but I am not persuaded that use of the balcony areas would be likely to generate any significant level of disturbance or activity that would go beyond that typical for use of outside space adjacent to a dwelling. However, due to the size and elevation of the balconies, particularly in relation to Bedroom 1, I find that the proposal would lead to an unacceptable loss of privacy to the neighbouring patio area which would be harmful to the living conditions at Southover. This would be contrary to the aims and objectives of Core Policy 57 of the Wiltshire Core Strategy Adopted January 2015 and a core planning principle of the National Planning Policy Framework insofar as they both seek to secure appropriate levels of amenity for existing occupants of land and buildings.

Conclusion

12. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

John D Allan

INSPECTOR