
Appeal Decision

Site visit made on 19 April 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 5th May 2017

Appeal Ref: APP/C2741/D/17/3171361

Greensleeves, Lords Moor Lane, Strensall, York, N Yorks YO32 5XF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Craig Hopwood against the decision of the City of York Council.
 - The application Ref 16/02368/FUL, dated 7 October 2016, was refused by notice dated 16 December 2016.
 - The application sought planning permission for extensions and alterations to existing house including first floor extension to house and garages to create additional storey and single storey front and rear extensions without complying with a condition attached to planning permission Ref 14/01573/FUL dated 14 November 2014.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following plans and details, including the use of materials:- Plans 813:003 Rev M and elevations 813:002 Rev L received by the Local Planning Authority on 16 October 2014.
 - The reason given for the condition is: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The application which is the subject of this appeal is made under Section 73A of the Planning Act for a minor material amendment to a scheme that was granted planning permission for extensions and alterations including a dormer with Juliet balcony within the rear roof slope. Condition 2 of the original planning permission specified the approved plans. This appeal relates to a revised scheme which includes a balcony not shown on the previously approved plans. At the time of my site visit, the development had been completed.

Main Issue

3. The main issue is the effect of the development upon the living conditions of the occupants of Heathfield, the adjacent residential property, with particular regard to the privacy of the rear garden.

Reasons

4. The appeal property and Heathfield are detached bungalows on the outskirts of the village of Strensall. The low-rise, low density nature of the dwellings,
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which are set in generous plots backing onto open countryside, mean that opportunities for overlooking are fairly limited.

5. The balcony spans the full width of the dormer and projects at eaves level beyond the main rear elevation, creating a substantial raised platform. Given the balcony is accessed via the master bedroom it is unlikely to be used by large numbers. Nevertheless, it is big enough to accommodate furniture and enable people to sit out. It is likely that the balcony would be used during good weather when it is to be expected that the neighbouring occupiers would be enjoying their back garden. The proposed privacy screen at the side of the balcony would prevent overlooking to Heathfield's windows and rear patio. However, I noted during my site visit that from this elevated position those using the balcony can overlook a significant part of Heathfield's rear garden, including the lawn and a paved seating area adjacent to the detached garage, resulting in a considerable loss of privacy to these areas. The submitted evidence demonstrates that this would not be mitigated by the privacy screen.
6. A Juliet balcony would not give rise to overlooking of the neighbouring garden to the same extent that the appeal scheme does, since those looking out would be within the bedroom rather than sitting or standing outside. Whilst the rear dormers allow for limited mutual overlooking, the balcony substantially increases this. I note from the submitted evidence that planning permission Ref 11/02261/FUL included a detached garage at Heathfield adjacent to the boundary with the appeal property which, at the time of my site visit, had not been constructed. Whilst such a structure may have provided greater screening, I am not aware of any requirement that all component parts of that planning permission be implemented. I have no evidence that the neighbour's position on the Parish Council influenced the Council's decision on the planning application. Accordingly, I have given all these matters limited weight.
7. The appellant has drawn my attention to a number of balconies which have been granted planning permission. However, I do not have full details of these other balconies or their relationship with surrounding development and so cannot draw direct comparisons with the appeal scheme. Therefore, I have given these other developments little weight, and have reached conclusions based on the individual circumstances of this appeal.
8. For the reasons set out above, I conclude that the development has a harmful effect upon the living conditions of the occupants of Heathfield with particular regard to the privacy of the rear garden. As such, the development fails to accord with the amenity protection aims set out in the core planning principles at paragraph 17 of the National Planning Policy Framework, Policy GP1(i) and H7(d) of the City of York Development Control Local Plan and paragraphs 3.1 and 3.4 of the City of York House Extensions and Alterations Draft Supplementary Planning Document.

Conclusion

9. For the reasons given above and having had regard to all other matters raised, including the benefits of the balcony in enhancing the appellant's enjoyment of the appeal property, I conclude that the appeal should be dismissed.

C L Humphrey

INSPECTOR