

Appeal Decision

Site visit made on 31 May 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 15 June 2017

Appeal Ref: APP/V2004/D/17/3170979

4 The Pines, Kingston-upon-Hull HU7 3GT

- 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 Lee Whitehead against the decision of Kingston-upon-Hull City Council.
 - The application Ref 16/01721/FULL, dated 8 December 2016, was refused by notice dated 2 February 2017.
 - The development proposed is retention of existing wrought iron railings on extension roof.
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Decision

1. The appeal is dismissed.

Main Issues

2. The effect of the development on the character and appearance of the area and on the living conditions of the occupiers of neighbouring properties.

Reasons

3. The development for which permission is sought has been implemented and I am considering this appeal retrospectively; however, the completion of the development has not affected my decision. In April 2011 the appellant was granted planning permission to demolish an existing conservatory and replace it with a single storey, flat-roof extension.
4. An earlier proposal for a similar development but incorporating a balcony above the extension was refused in 2009. The appellant implemented the 2011 permission but has installed railings around the flat roof of the extension.
5. The appeal site has a small existing balcony that is just short of two metres wide and approximately half a metre deep. This balcony sits immediately outside the window to the main bedroom. There is a gate to the side of this small balcony that provides access to the flat roof of the extension and which has the appearance of a more substantial balcony. It is not within my remit to determine whether the structure would be capable of such a use and I must have a mind to the potential use to which future occupiers might put this area.

Character and Appearance

6. The Pines is a small part of the relatively recent residential building in the Kingswood area of Kingston-upon-Hull. The prevailing pattern encompasses wide roads with smaller streets branching off, and many of these smaller streets
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host a number of cul-de-sacs. The appeal site sits in one such cul-de-sac, which it shares with six other detached dwellings. Houses are a mixture of modern styles and differing sizes, and typically the orientation of rear gardens is such that there is minimal overlooking. The effect is to create a pleasant street with significant defensible space and privacy, and an attractive pattern of roofs blending with surrounding properties to reinforce the residential character of the area.

7. Saved Policies BE1 and BE5 of the Hull Cityplan 2000 (the Local Plan) together seek to ensure, amongst other things, that development is in keeping with the surrounding area in terms of scale, height and proportion.
8. The railings installed around the flat roof space are a metre or so tall and sit atop a short parapet around and enclosing the space. The railings are painted black, which reflects other railings in the vicinity used for small balconies and as safety barriers in front of large upper-floor windows. However, the railings at the appeal site surround a significantly larger space than any other dwelling in the cul-de-sac.
9. There is one building that appears to have a similar sized balcony but that appears to be incorporated into the building as its side elevations form part of the main building's elevations. I have nothing before me to explain the circumstances in which that balcony was built and its existence alone could not be justification for granting this appeal. I must determine this appeal on its merits and I give the presence of this other balcony very little weight in that determination.
10. The gate to the flat roof area was padlocked shut and the roof space was bare and without apparent evidence of use. The railings were clearly visible from within the cul-de-sac and immediately caught the eye. Closer to the property, the railings dominated the space between the front of the garage's pitched roof and the rear pitch of the main roof. From Runnymede Avenue, which skirts around the rear of the cul-de-sac, the railings were a dominating and incongruous addition to the property that detracted from the otherwise pleasant roof-scape of the area.
11. Therefore, I conclude that the railings around the flat roof at the appeal site have a negative impact on the character and appearance of the cul-de-sac and the wider area, and are not in accordance with Policies BE1 and BE5.

Living Conditions

12. The proximity of the extension to the boundary enabled one to look down into the garden at 3 The Pines and into parts of the garden at 1 The Pines not otherwise visible from the appeal site. In addition, there is a large window in the side elevation of No 3 that has the appearance of a bedroom window. The flat roof allows one to stand significantly closer to this window and to see it from a shallower angle. I consider this to be a significant detriment to the privacy of the occupiers of No 1 and No 3.
13. The increased overlooking of the gardens at No 1 and No 3 would also mean that the railings would be significantly more visible from those gardens. I consider that the proximity of the railings would cause an overbearing intrusion into the outlook from No 3.

14. Policies BE1 and BE5 of the Local Plan together seek to ensure that the homes of surrounding occupiers are protected from the adverse impact of loss of privacy and overbearing. Therefore, because of the potential use of the flat roof as a balcony, and the overbearing nature of the development, I conclude that the railings are not in accordance with Policies BE1 and BE5.

Other Matters

15. The appellant has given information about personal circumstances that should be taken into account in determining this appeal. First, he points to a health issue with a child of the family that might lead to the child climbing out of a first floor window onto the flat roof of the extension. Should that occur, the railings would prevent the child from falling off the roof.
16. The health and safety of occupants, especially children, is a general material consideration to which I give significant weight. However, the appellant's evidence dealing with this matter does not mention any specific risk or history of such an incident occurring. In the absence of clear evidence of specific risk I can give little weight to the appellant's concern in this particular case.
17. The appellant also refers to a specific anxiety due to a medical condition suffered by a family member in relation to the flat roof being used as a means to gain unlawful access to the dwelling. The appellant has provided evidence of the medical condition but there is no confirmation of consequent anxiety. In addition I have no evidence before me that the appeal site is more prone to crime and disorder than any other dwelling in the area. The reduction of crime and disorder and the fear of crime are important material considerations to which I give significant weight. However, in this case the evidence before me is such that I can give very little weight to the appellant's particular circumstances.
18. Therefore, I conclude that the personal circumstances described are not sufficient to outweigh the harm to the character and appearance of the area or to the living conditions of the occupants of No 1 and No 3.

Conclusion

19. For the reasons given above, and taking into account all other matters, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR