



Appeal Decision

Site visit made on 31 May 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 22/06/17

Appeal Ref: APP/K0235/D/17/3170807

Glenmore, Westfield Road, Oakley MK43 7SU

- 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 Wickersham against the decision of Bedford Borough Council.
 - The application Ref 16/03266/S73A, dated 14 November 2016, was refused by notice dated 22 December 2016.
 - The development proposed is for a balcony.
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Decision

1. The appeal is allowed and planning permission is granted for a balcony at Glenmore, Westfield Road, Oakley MK43 7SU in accordance with the terms of the application, Ref 16/03266/S73A, dated 14 November 2016.

Procedural Matter

2. At the time of the site visit, the balcony had been constructed. On this basis I will therefore deal with the appeal as a retrospective application. The description of the proposed works within the planning application form refers to 'the retention of existing balcony'. As retention does not fall within the definition of development set out within Section 55 of the Town and Country Planning Act 1990 it is not necessary to refer to this in my formal decision.

Main Issue

3. Oakley House is a grade II* listed building located on Church Lane, approximately 5 minutes' walk from the appeal site. The listed building is described as a hunting box and was remodelled between 1787 and 1792. It is built of coursed limestone rubble which has been partly colour-washed and has slate roofs. The main block is five window bays long by two deep and comprises two storeys and has a veranda to ground floor on the west, south and east sides.
4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to preserving listed buildings including their settings. However, given the separation distance from the appeal site and screening afforded to the listed building, it is not considered that the balcony would adversely harm the setting of this designated heritage asset.

5. Against this, the main issue is therefore the effect of the development on the living conditions of the adjacent neighbours at Kingswood, with particular reference to overlooking and privacy.

Reasons

6. The appeal dwelling is a substantial 5 bedroom detached dwelling, set back from Westfield Road by approximately 15 metres. Views of the front of the dwelling are restricted by a mature belt of trees. The immediate locality is predominately residential in nature, generally characterised by large, detached dwellings in relatively spacious grounds.
7. The balcony which is the subject of this appeal has a detailed planning history. Planning permission was granted in 2009¹ for a first floor extension to side with balcony. The balcony was however extended during the course of construction works in 2009/10 with an approximate depth of 2.1 metres and a length of 5.1 metres. The balcony is therefore approximately 0.8 metres deeper than the scheme approved in 2009.
8. A retrospective planning application was subsequently submitted and planning permission was granted in 2015². This scheme included an increase in height of 1.8 metres to the privacy screen on the flank elevation, adjacent to the neighbouring dwelling, with the screen to be constructed from obscured glass. These amendments were not implemented and in 2016 a further application was submitted to retain the balcony constructed in 2009/10, which is the subject of this appeal.
9. The balcony is located on the rear elevation of the host dwelling and is not visible from Westfield Road. It is accessed from a glazed door leading from the home office and is constructed from glazed panels and stainless steel balustrades. Due to the scale of the dwelling and the use of lightweight materials, the balcony is a subservient, minimally visually intrusive addition.
10. The Council's concern relates to the impact the lack of privacy screening has on the neighbouring dwelling of Kingswood. Kingswood is a substantial, 2-storey dwelling set in large grounds. The rear building line of the neighbouring dwelling sits forward of the host dwelling. In addition, the balcony is located approximately 3 metres from the nearest flank wall of Kingswood, which does not have any window openings.
11. It is accepted that the greater depth of the balcony, to an extent, allows for increased views of the rear garden of Kingswood. Accordingly, relatively unrestricted views of the rear garden of Kingswood exist from the balcony. Views of the patio area directly adjacent to the lounge and dining room are more limited due to the presence of a rear extension. However, from both the submitted evidence and observations made during the site visit, similar unrestricted views of the rear garden of Kingswood also exist from the window of the home office of the host dwelling.
12. The Council accepts that the principle of a balcony in this location is acceptable and that the greater depth does not necessarily or unacceptably increase usage. Notwithstanding this, without the introduction of a 1.8 metre obscure glazed privacy screening panel on the flank adjacent to Kingswood, the Council

¹ Council reference 09/01169/FUL

² Council reference 15/01530/S73A

contend that a significant degree of overlooking occurs. The Council consider this to be harmful to the living conditions of the residents with particular respect to overlooking and privacy.

13. Due to the position and scale of the existing balcony, the introduction of an obscure glazed panel of a height of approximately 1.8 metres would not significantly reduce the degree of overlooking of the rear garden of Kingswood from the balcony. In addition such an amendment would be at odds to the rest of the balcony and would result in an unbalanced design, which would appear visually intrusive. The only benefit of such an increase in height of the flank panel would be to restrict views of users of the balcony from the rear garden of Kingswood.
14. Overlooking of amenity space from neighbouring dwellings may not be desirable; however it is not an unusual situation when dwellings are positioned in proximity to one another. Furthermore, considerable weight has also been given to the fact a similar degree of overlooking occurs from the window of the home office. As such, the possibility of overlooking would occur even if the balcony was not in-situ.
15. It is therefore considered that the balcony as constructed, without the additional privacy screening, does not significantly increase the degree of overlooking of the rear garden of Kingswood. Accordingly, the balcony does not significantly harm the living conditions of neighbouring occupiers with regard to privacy.
16. Consequently, the balcony as built complies with Policy BE30 (ix) of the Bedford Borough Local Plan 2002 insofar as it does not give rise to any additional disturbance to the amenity of the neighbouring occupiers. The Council has also referred to Policy CP21 of the Bedford Borough Council Development Plan Document Core Strategy & Rural Issues Plan 2008 in the decision notice. However, this policy is primarily concerned with design quality and, as it does not make specific reference to amenity of neighbouring occupiers, it is not considered of relevant this instance.

Conditions

17. As the structure is already in place, a commencement condition and the requirement for the scheme to accord with the submitted plans would serve no planning purpose. The Council has also suggested an additional condition requiring the erection of obscure glazed panels on the western side of the balcony and the two panels adjoining the southern elevation. This is to limit the adverse effects of overlooking.
18. However, as explained above, it is not considered that the balcony as built results in a material loss of privacy to the neighbouring occupiers. Consequently, such a condition is not necessary. No conditions are therefore appropriate in this instance.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed.

Helen Cassini

INSPECTOR