

Appeal Decision

Site visit made on 20 June 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 29 June 2017

Appeal Ref: APP/E2001/D/17/3173193

16 Theasby Way, Leven, East Riding of Yorkshire HU17 5QF

- 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 Brian Meyer against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/16/01011/PLF/EASTNE, dated 22 March 2016, was refused by notice dated 24 February 2017.
 - The development proposed is retention of a second floor balcony.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The balcony that is the subject of this appeal is described as being the same as that previously refused planning permission and dismissed at appeal¹, other than the addition of a glazed side screen panel on the south facing elevation. As noted in the previous appeal decision, the balcony floor has been constructed. In addition, at the time of my site visit a clear polycarbonate screen was secured temporarily in place on the southern side of the balcony. I was able to take views from the balcony with, and without, the temporary screen but for the avoidance of doubt my decision is based on the plans and particulars submitted with the application.

Main Issues

3. The main issues are the effect of the proposed development upon:
 - The living conditions of occupiers of 8 The Bryants, with particular regard to privacy; and
 - The character and appearance of the host building.

Reasons

Living Conditions

4. I concur with my colleague's assessment of the balcony being sufficiently large to allow a person to stand outside the dwelling clear of the wall and window frame. It would also, in my judgement, be of sufficient proportions to allow a person or persons to sit out on the balcony.

¹ APP/E2001/D/15/3128750

5. The two metre high side screen would, with suitably opaque glazing, avoid the close, direct, unobstructed and largely unrestricted view of the area directly outside the rear elevation of 8 The Bryants that was identified in the previous appeal. It would not, however, wholly avoid such views of the rear garden of No. 8.
6. Views across the rear garden of that property would still be possible from the balcony beyond the end of the side screen. A person stood or sat on the balcony would also be clearly visible in oblique views across the face of the balcony from ground level at the rear of the adjacent property. Therefore, whilst the level of direct overlooking would be reduced, particularly to the area immediately at the rear of No. 8, the rear portion of the garden would still be clearly overlooked from an elevated position and at close quarters. Moreover, the presence of people moving past, or stood or sat in close proximity to, the opaque glazing would create clearly discernible shadowy figures behind the screen. This would result in a lingering perception of being overlooked even from areas at the rear of No 8 where the opaque glazed screen would otherwise restrict direct overlooking.
7. It is clear that following the dismissal at appeal of a previous proposal, the appellant has considered ways of trying to reduce or avoid harm arising from overlooking and loss of privacy as a consequence of the proposed balcony. I accept that there is inevitably a degree of inter-visibility between dwellings within many modern housing schemes. Indeed, having also stood with my feet directly abutting the cill of the French doors, I concur with the Inspector's conclusions that oblique views of the rear garden of No 8 are possible from the Juliet balcony and within the second floor room.
8. The side screen may well therefore reduce overlooking from the second floor room that is currently possible from behind the Juliet balcony. However, in my judgement the role and function of an outside balcony is materially different to that of a Juliet balcony. In this instance, the manner and degree of close and high level overlooking from the balcony that I have identified would result in a significant loss of privacy and a degree of intrusion that would be harmful to the living conditions of occupiers of No. 8.
9. The proposal would, I conclude, fail to have proper regard to the amenity of existing properties and would thus fail to accord with policy ENV1 (B.4) of the East Riding Local Plan: Strategy Document 2016 (ERLP). In failing to secure a good standard of amenity for existing occupiers of land and buildings it would also be in conflict with one of the National Planning Policy Framework's (the Framework) core planning principles.

Character and Appearance

10. The Inspector in the previous appeal concluded that as the balcony in that instance would not be visible in the street scene, its design, materials and location would not materially impact on the character and appearance of the dwelling or street scene. However, the current proposal differs from that scheme with the addition of a 2 metre high opaque glazed screen on the balcony's southern elevation.
11. The balcony is at second floor level, projecting from the rear face of the large dormer structure that occupies almost all the rear roof plane of the host property. The screen would extend to a height of 2 metres from balcony floor

to dormer eaves level. The additional height of the screen, together with the solid underside of the concrete slab base of the balcony, would add to the visible projecting bulk of the balcony. This would be particularly evident when viewed from ground level from within the rear garden of No. 8 and, to a lesser extent, the rear gardens of other adjacent properties. These factors would combine to give the balcony an incongruous appearance, and would harmfully exaggerate the already top-heavy proportions of the dormer structure at the host property.

12. Thus, I agree that the proposal would result in an intrusive, dominant and alien feature at the rear of the host property. An absence of public views is no basis for allowing the appeal proposal given the harm that it would cause to the character and appearance of the appeal property. The proposal would therefore fail to achieve the high quality of design sought by ERLP policy ENV1 and would also be at odds with the Framework which seeks high quality design as one of its core planning principles.

Other Matters

13. The appellant has suggested further revisions to the proposal, including extending the side screen further beyond the corner of the balcony to prevent oblique views of the rear garden area of No 8. However, that is not the scheme before me and, given my findings in respect of character and appearance, I give it only limited weight.
14. I have been referred to examples of other instances balcony screens were considered to be acceptable and appropriate. However, I am not aware of the detailed circumstances of those proposals or the particular relationships between the properties in question and so I give this matter limited weight.
15. Although the appellant has not submitted an application for an award of costs against the Council, I have been reminded that awards of costs may be instigated by the Inspector in the absence of an application by either party. In particular, the appellant has queried whether the Council's conclusions regarding the effect of the balcony on appearance following the Inspector's previous conclusions on the matter amount to unreasonable behaviour. However, I am satisfied that the scheme before me is materially different from that considered previously by the Inspector and it was not unreasonable for the Council to reach the conclusion that they did.

Conclusion

16. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR