

Appeal Decision

Site visit made on 7 August 2017

by George Arrowsmith BA, MCD, MRTPI

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

Decision date: 01 September 2017

Appeal Ref: APP/W3710/D/17/3174066

24 Wolvey Road, Bulkington, Bedworth, CV12 9JU

- 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 Paul Burkinshaw against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 034388, dated 22 September 2016, was refused by notice dated 16 March 2017.
 - The development proposed is a rear balcony.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed balcony on the privacy of neighbouring residential properties.

Reasons

3. The appeal property is a semi-detached bungalow which has been extended by a loft conversion and a single storey rear extension. The proposal is to create a balcony on the roof of the rear extension. The balcony would be confined to about a third of the roof area by a post and wire enclosure.
4. The reason for refusal refers in general to a loss of privacy and specifically to a significant sense of overlooking experienced by a side facing kitchen window at the neighbouring No 22. The officer's report refers to an "open and elevated view" over neighbouring gardens. Concern about views over rear gardens are also expressed by neighbours at Nos 22 and 28 Wolvey Road.
5. Even though the post and wire enclosure would prevent the use of that part of the roof closest to No 22 it would still be possible for anyone standing or sitting at the eastern side of the accessible balcony area to look into No 22's side kitchen window. I nevertheless agree with the appellant that the 2m high boundary fence, the angled view and the appeal property's side gable would limit the actual loss of privacy. I also agree with the appellant that anyone using the balcony would be likely to look towards the north rather than take the more contrived act of looking towards No 22's side window. Despite all these mitigating factors I consider that even the limited overlooking of the kitchen would cause some loss of privacy.

6. Both parties refer to the statement in the Council's 2004 Residential Design Guide that habitable room windows above ground floor which overlook neighbouring private amenity space shall be at least 7m from the boundary. Both relate this to the distance between the balcony and No 22's kitchen window. Since the asserted overlooking is not from a window and since the guidance refers to the distance to a boundary, the guidance is not directly relevant to this aspect of the appeal.
7. I consider that the overlooking of neighbouring garden areas is another significant consequence of forming the balcony. The use of these areas would become uncomfortable if one was aware of being overlooked by someone sitting on a nearby roof. In my view, the loss of privacy would affect both numbers 22 and 26, even though there is no objection from the latter and the effect on that property is not cited in the officer's report. The effect on No 28 would be less because of the greater distance from the balcony but there would still be some effect, particularly through the perceived loss of privacy.
8. I am satisfied that the overall loss of privacy caused by the proposal would conflict with the objectives of saved policy ENV14 in the Nuneaton and Bedworth Borough Local Plan 2006 and would be sufficient to justify the refusal of permission. This conclusion holds even if the effect on No 26 is discounted.
9. The officer's report says that the balcony would be incongruous and appear out of keeping when viewed from nearby properties. Neighbours also consider that the development would appear out of character. Despite these observations the decision notice does not cite the balcony's appearance as a reason for refusal. In some circumstances I would therefore have thought it necessary to seek the parties' further views on this matter. However, this is unnecessary given that I have found the effect on privacy a decisive reason for refusing permission.
10. To overcome the problem of overlooking the appellant says that he is prepared to replace the proposed post and wire enclosure with a 1.7m high and 1.5m long panel of obscure glazed screening on the western edge of the balcony or to place landscaped planters to the west of the bedroom door to preclude the use of the western part of the balcony. Any such modification would change the proposal's character, including a substantial change in its appearance. It should therefore be considered through a fresh application on which interested persons would again have the opportunity to comment.

George Arrowsmith

INSPECTOR