

Appeal Decision

Site visit made on 19 February 2018

by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd March 2018.

Appeal Ref: APP/H1840/D/17/3189089

10 Vallenders Road, Bredon GL20 7HL

- 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 Nicholas Bradley against the decision of Wychavon District Council.
 - The application Ref 17/01053/HP, dated 21 May 2017, was refused by notice dated 20 September 2017.
 - The development proposed is ground and first floor extensions, to include internal and external modifications.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Nicholas Bradley against Wychavon District Council. This application is the subject of a separate decision.

Main issue

3. The main issue is the effect of the development on the living conditions of the occupiers of 7 and 9 Cherry Orchard and 8 Vallenders Road with regards to privacy and overlooking.

Reasons

Living conditions

4. The appeal dwelling is a detached two storey property with an attached single storey garage. The rear of the garage is off-set from the rear wall of the house and it sits closer to the rear boundary. The site is located in a residential area and the property sits between two detached dwellings, with 8 Vallenders Road located to the north. Cherry Orchard is located to the west. The rear boundary at the appeal property is adjacent to a section of garden at 9 Cherry Orchard as well as a small part of the garden at No.7. The layout of both No.7 and No.9 is such that there are side gardens which extend to the front of the properties to a point where each has a detached garage. These side/front gardens link into the rear garden for each property.
5. The development would include a first floor extension over the garage as well as a small two storey element which would be located in the approximate position of the existing conservatory. A single storey rear extension is also proposed. The flat roof of this would be used as a balcony accessed from bedroom 4 (the master bedroom).

6. The first floor extension and the new two storey element would introduce first floor windows closer to the rear boundary than currently exists. The outlook for these windows would primarily be towards the garage at 9 Cherry Orchard and the end section of the side/front garden. This would increase the levels of overlooking. However, only a small portion of this neighbouring garden would be affected, primarily the areas close to the side and rear of the garage. Such areas are less sensitive to overlooking than the sections of the garden closer to the dwelling. I am satisfied that the overlooking from the first floor rear facing windows would not result in a significant loss of privacy.
7. The edge of the balcony would be relatively close to the common boundary with 9 Cherry Orchard. Even with the taller screen proposed in the southern section, there would be significant views to the side/front garden and the rear garden for this neighbouring property. This would be at closer quarters than the overlooking from existing windows. In addition, overlooking from a balcony is of a different character than from within a room. The presence of people outside has a much more intrusive feel. When the close distance is taken together with the intrusive character of the overlooking the result would be a significant increase in overlooking and loss of privacy. The existing boundary fence would not adequately mitigate this harm.
8. The balcony would be accessed from a bedroom, rather than one of the communal areas of the house. While this may limit the frequency of its use and temper the nature of that use, it is still likely to be used frequently by the occupants of the master bedroom and thus cause significant harm.
9. The garage for 7 Cherry Orchard sits close to the appeal property. Views from the extension above the garage and the balcony would primarily be towards this neighbouring garage and the small section of garden adjacent to it. Any views to other parts of the side garden would be at some distance and at an oblique angle such that this would not be harmful. I am therefore satisfied that the development would not result in harm to the living conditions of the occupiers of this neighbouring property.
10. The positioning of the rear facing windows in the extension above the garage is such that there would be no direct outlook towards the rear garden of 8 Vallenders Road. The balcony would extend out beyond the rear wall of the garage and bedroom 4. From this small section of the balcony there would be views towards the garden of this neighbouring property. It would not be possible to see into the rear of the house or to the areas of land closest to the dwelling. A taller screen in this side section of the balcony could overcome any such overlooking. This could be controlled by condition. I am therefore satisfied that the development would not result in harmful overlooking or loss of privacy for the occupiers of this neighbouring property.
11. I have found that there would not be unacceptable harm to the living conditions of the occupiers of 7 Cherry Orchard and 8 Vallenders Road. This lack of harm would not outweigh or mitigate the harmful effect that would arise for the occupiers of 9 Cherry Orchard. The development would not accord with Policy SWDP21 of the South Worcestershire Development Plan (adopted February 2016) which, among other things, seeks to ensure that development will provide adequate levels of privacy. There would also be conflict with the aim of the National Planning Policy Framework (the Framework) to secure a

good standard of amenity for all existing and future occupants of land and buildings.

12. The Council's reason for refusal only made general reference to the effect of the development on properties in Cherry Orchard. Nos. 7 and 9 are the closest to the appeal site and share a common boundary. Given the distances involved I am satisfied that there would not be an unacceptable effect on the privacy of the occupiers of any other properties in Cherry Orchard.
13. The appellant has referred to numerous developments which have been granted planning permission within the district. Given my findings above, it is only necessary that I consider schemes which incorporate a balcony. The information I have been provided with suggests that the veranda was proposed to the front elevation of The Quest in Dock Lane. The neighbours appear to be located on the opposite side of a lane and seem to have large gardens. Those properties are arranged so that significant areas would not be affected by the overlooking. The character of this area is much looser knit than with the appeal site and so the situation is not comparable.
14. The information provided suggests that overlooking from Steepholm, also in Dock Lane, could effectively be mitigated by providing screens and that, for the rear balcony, the neighbouring gardens were already overlooked from raised garden areas. This is not comparable to the appeal scheme where the overlooking could not be fully mitigated through the provision of side screens and the existing garden does not cause overlooking.

Other matters

15. The appellant wishes to provide the balcony to mitigate the loss of an area of garden and make good use of the roof space. He also intends to use it to allow for easier cleaning of the upstairs windows and other maintenance tasks, as well as providing an alternative means of an emergency escape. While this may be convenient and desirable for the appellant, the area of remaining garden would not be unpleasantly small and there are other means of dealing with maintenance and escape issues. Therefore I give these factors very little weight and it does not outweigh the harm which has been identified.
16. The Council's reason for refusal states that the development would fail to integrate effectively with its surroundings or complement the character of the area. It also makes reference to the importance of good design. Although both character and design have a wide meaning, it is clear from the context of the Council's decision, especially as set out in the officer report, that this relates to privacy and overlooking. The effect on privacy is a matter of design and part of the character of an area is the degree to which the properties are overlooked and the nature that overlooking takes.
17. The Council did not identify any harm to the character or appearance of the area in terms of the built form of the development. As the side extension would take a subservient form and the rear extension would not be seen from any public vantage points I reach the same view on this matter. This does not, however, outweigh the harm that would arise to the living conditions of the occupiers of 9 Cherry Orchard from the proposed balcony.
18. The appellant has made reference to a planning application where the Council cited paragraph 14 of the Framework in its report. I do not have full details of

that proposal, however the specific section of the Framework quoted (often referred to as the tilted balance) would only be relevant if the development plan was absent, silent or the relevant policies were out of date. In respect of the appeal development this is not the case and the tilted balance does not apply.

19. I am also aware that the Parish Council did not object to the proposal. However, I must reach my own view on the substantive planning merits of the case.

Conclusion

20. The development would not accord with the development plan when it is considered as a whole. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K Taylor

INSPECTOR