
Appeal Decision

Site visit made on 7 May 2019

by Jan Hebblethwaite MA Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 30th July 2019

Appeal Ref: APP/K2420/D/19/3224500
40 Highfields, Thornton LE67 1AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant retrospective planning permission.
 - The appeal is made by Mr Steve Benson against the decision of Hinckley and Bosworth Borough Council. The application was made in the name of Mr Benson.
 - The application Ref 18/01098/HOU, dated 26 October 2018, was refused by notice dated 21 December 2018.
 - The development is the construction of a balcony to the rear.
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Decision

1. The appeal is dismissed.

Main Issues

2. I note that the Council's delegated report concludes that there is harm to the character of the area but that the development would not adversely impact neighbouring residential amenity. However, the Council's second reason for refusal specifically refers to harm to the amenity of neighbours. The appellant has given reasons why he considers that the balcony does not cause an overlooking problem. I have thus considered the appeal accordingly, also noting that the balcony is already in place.
3. Having regard to the above, the main issues are the effects:
 - (i) the impact on the character of the host property and the immediate vicinity; and
 - (ii) of the balcony on the living conditions of occupants of neighbouring properties with regard to privacy.

Reasons

Character and appearance

4. The appeal property is one of a pair of semi-detached houses which has been substantially remodelled. From the rear of the houses, the land falls away to a footpath and then to open fields. The slope of the gardens is such that they are formed of terraces with steps between them. The balcony is a cantilevered structure, accessed from glazed doors in a box dormer serving a room in the roof space. The footpath runs parallel with

the properties in Highfields, from Oakwood Close to Merrylees Road. I walked along the footpath from Oakwood Close to the rear of the appeal property.

5. Although the railings forming the balcony are dark coloured, the structure is clearly visible from the path for some distance. Some of the properties backing onto the footpath have extensions of differing styles but they are generally single storey with some roof conversions. Due to its location in the large box dormer and the slope of the garden, the balcony appears prominent and at odds with the other properties which back onto the footpath. The prominent appearance is exacerbated by the cantilevered design which is out of character within this group of traditional post-war houses, albeit with more modern alterations.
6. In his statement, the appellant seeks to draw a distinction between “public” and “private” space and contends that the reason for refusal fails to take account of the location of the balcony on the rear elevation (private space) rather than fronting the street (public space). I do not agree that the distinction is appropriate. The public footpath exposes the rear elevation of the appeal property to views by the public and therefore to scrutiny by the local planning authority.
7. I did see the neighbouring balcony to which the appellant refers in his statement, but this is smaller and at first floor level. As such, it is not so prominent and intrusive as the appeal development.
8. The appeal balcony is also at odds with the host property as it consists of an incongruous protrusion at a considerable height above the garden. Whilst I accept that the host property has undergone several alterations, these are generally sympathetic to the original house. The elevations shown on the submitted plans are not realistic because in practice, all views of the balcony are from underneath and it appears as a protrusion from above the rear wall. For that reason, the balcony is out of character with the host property.
9. For those reasons, I find that the proposal conflicts with the aims of Policy DM10 (c) of the Council’s Site Allocation and Development Management Policies DPD (the DPD) which seeks to protect or enhance the character of the area surrounding the development.

Living conditions

10. The rear garden of the neighbouring property 41 Highfields is terraced and apart from one corner which is screened by shrubbery, is entirely exposed to view from the balcony. I understand the appellants point that without the balcony, there would be some views of the neighbouring garden from the glazed doors. However, the balcony enables the viewer to stand further out from the windows, enabling greater and more invasive views down into more of the neighbour’s garden.
11. I note from the report (at paragraph 8.12) that the officer had habitable rooms in mind when considering the overlooking and privacy issue. I agree that the balcony does not cause any such overlooking, but I saw from my site visit that there is a considerable loss of privacy in the neighbour’s garden. I have noted the suggestion that privacy screens

could be added to the balcony cheeks which could be required by a planning condition. However, there are no details of what these could look like. I am not therefore satisfied that it would be appropriate to require these by condition. Also, it appears they could only be 1.2m high, which would not prevent sideways views from persons stood on the balcony. Consequently, this is not a solution.

12. For this reason, the development does not accord with Policy DM10 (a) of the DPD which seeks to safeguard the privacy and amenity of nearby residents and occupiers of buildings adjacent to the proposed development

Other Matters

13. The appellants statement includes other examples of balconies in the village which have been constructed. I find none of these are comparable to the appeal development by reason of the unusual cantilevered design of the balcony and the topography of the gardens to the Highfields properties. Consequently, they have very little weight.

Conclusion

14. For the reasons given above and having regard to all other matters raised, appeal is dismissed.

Jan Hebblethwaite

INSPECTOR