



Appeal Decision

Site visit made on 6 June 2019

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 19th August 2019

Appeal Ref: APP/Q3305/D/19/3226592

1 Apple Meadow View, Park Hayes, Leigh On Mendip, Shepton Mallet BA3 5GP

- 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 D. Rowe and Miss A. Price against the decision of Mendip District Council.
 - The application Ref 2018/2778/HSE, dated 10 November 2018, was refused by notice dated 25 January 2019.
 - The development proposed is described as erection of Juliet Balcony.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of Juliet Balcony at 1 Apple Meadow View, Park Hayes, Leigh on Mendip, Shepton Mallet BA3 5GP in accordance with the terms of the application, Ref 2018/2778/HSE, dated 10 November 2018, subject to the following conditions:
 - 1) Prior to the balcony hereby approved being brought into use, a 1100mm high guard rail shall be erected for the length of the balcony as indicated on plan 2018/ROWE/04A and shall be fixed and shall be retained for the lifetime of the development hereby approved.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2018/ROWE/01, 2018/ROWE/02, 2018/ROWE/03 and 2018/ROWE/04A.

Procedural Matters

2. The description of development has been amended, omitting the word 'retrospective' as this is not development. At the site visit, it was clear that the proposed development had been carried out.
3. Following the submission of the appeal, the appellants provided a revised plan showing the placement of a handrail guard across the window opening (Ref 2018/ROWE/04A). The Council have had an opportunity to comment on the amended plans. Having regard to the Wheatcroft Principle¹, I am satisfied that the amendments would not prejudice interested parties. Consequently, I have accepted the amended plans and determined the appeal on that basis.

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

4. I have also dealt with another appeal (Ref: APP/Q3305/D/19/3226603) on this site. That appeal is the subject of a separate decision.
5. The National Planning Policy Framework was revised in February 2019 (the Framework). I have also taken this into account as part of the determination of this appeal.

Main Issue

6. The effect of the proposed balcony on the living conditions of neighbouring occupiers at 2 Apple Meadow View.

Reasons

7. No 1 Apple Meadow View is a detached dwelling backing on to open fields and forming part of a linear development of similar properties. The
8. The first floor rear elevation already incorporates double doors which have been constructed together with a 'Juliet' balcony. The balcony has a narrow platform and it is currently used to display plants. At the site visit, I considered the potential for occupiers to be able to stand on the projection and concluded that this would be possible.
9. The position of the doors relative to the boundary with the neighbouring property at No2 provide existing opportunities for the overlooking of the patio area closest to the rear of the dwelling, as well as the remainder of the rear garden.
10. The existing balcony with its projection introduces both the perception of overlooking, but only limited potential for external activity (limited by the width of the platform) in an elevated position relative to the level of the neighbouring garden. Having regard to the submission of a revised plan showing the introduction of a guard rail that would sit immediately in front of the double doors, this would in my view significantly reduce the existing ability of the appellant to readily overlook the patio area immediately to the rear of the neighbouring dwelling.
11. I am satisfied that there would be an improvement to the privacy of the occupiers of No2, associated with the provision of the guard rail would outweigh any additional harm from what would be limited activity on the balcony or overlooking of the neighbouring garden at No2.
12. I therefore consider the proposals to be aligned to policy DP7 of the Mendip District Council Local Plan Part One (2014) which seeks development that protects the living conditions of users of neighbouring buildings.

Conditions

13. I have applied a condition specifying the drawings and a timescale for the implementation of the development, in the interests of certainty.

Conclusions

14. Having regard to all matters raised, and subject to the condition specified, I consider the appeal is allowed.

Sian Griffiths

INSPECTOR