The Planning Inspectorate

Appeal Decision

Site visit made on 27 January 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/Q1445/D/19/3241052
62 Dean Court Road, Rottingdean, Brighton BN2 7DJ

- 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 Richard Morris against the decision of Brighton & Hove City Council.
- The application Ref BH2019/02254, dated 29 July 2019, was refused by notice dated 17 October 2019.
- The development proposed is described as erection of glass balustrade to existing flat roof to create a balcony.

Decision

1. The appeal is allowed and planning permission is granted for erection of glass balustrade to existing flat roof to create a balcony, at 62 Dean Court Road, Rottingdean BH2 7DJ, in accordance with the terms of the application reference BH2019/02254, dated 29 July 2019, and the plans submitted with it, subject to the following condition:

    1) Notwithstanding any information in the submissions, within 2 months of the date of this decision, details of additional screening to fitted to the side of the balcony facing 60 Dean Court Road, shall be submitted to and approved in writing by the Local Planning Authority, together with a timetable for its installation. This screening shall then be installed in accordance with the approved timetable and retained thereafter.

Procedural Matters

2. The parties disagree over whether or not the balcony at No 62 existed prior to the fitting of the balustrade. Here my attention has been drawn to neighbouring 60 Dean Court Road, whose design is very similar to that of No 62, and which features an accessible roof top space without a balustrade. I have little to doubt that the same arrangement existed at No 62 previously, and that occupants could thus access the roof top. However, without a balustrade the space could clearly not have safely or practically functioned as a balcony, and this is indeed the reason given by the appellant for the development. In this regard I consider that the development has entailed the formal creation of a balcony.

3. The description of development in both the banner heading and in my decision above is that used by the Council, as it is a more concise and precise description than that given on the application form.

4. The development has been implemented. Whilst this has aided my assessment of the appeal scheme, my decision is based on the submitted plans.

Main Issue

5. The main issue is the effect of the development on the living conditions of occupants of neighbouring dwellings, with specific regard to privacy.

Reasons

6. 62 Dean Court Road is a large detached dwelling which stands within a row of similarly large detached houses of varied design. Some of these dwellings feature rear balconies with balustrades, and all in the vicinity of the site have long back gardens within which ground levels gradually rise. In the absence of significant boundary vegetation, adjoining gardens are thus more greatly exposed to view from neighbouring dwellings than might be the case otherwise. This overlooking is increased where balconies are present. Raised ground levels also allow for reasonably clear views towards windows in the rear elevations of neighbouring dwellings.

7. The balcony serves a first floor bedroom. It is therefore reasonable to assume that its level of use both is and would be less than if it was attached to a principal living space. The latter are located at ground floor level, and have more immediate access to the back garden within which other seating areas are available. The principal outlook from the balcony is over the back garden, and on towards the open landscape beyond. Views are however also possible into the gardens of 60 and 64 Dean Court Road, which are located either side.

8. Views into the garden of No 64 are oblique, and spaces immediately to the rear of No 64 are largely invisible. This is because the balcony is set within the half of the rear elevation furthest from the boundary with No 64, and because No 64 extends further back in its plot than No 62. Similar views into the garden are possible through the windows in the rear elevation of No 62. I acknowledge that users of the balcony are likely to be more visually apparent from within the garden of No 64 than they would be if looking through the windows, and that the views could be of longer duration. However, taking the extent of view and other sources of overlooking into account, alongside likely low levels of use of the balcony, no unacceptable harm arises.

9. The balcony is located adjacent to the boundary with No 60. Because No 60 is set further forward in its plot than No 62, the balcony allows for more extensive views into outdoor spaces located immediately to the rear of No 60 than would be available otherwise. This is true even taking into account the presence of windows in the side elevation of No 62. The effect is intrusive, and not diminished by likely low levels of use of the balcony. It could nonetheless be eliminated by the provision of a higher or additional screening to the edge of the balcony. This screening would not add any significant bulk, and could be secured by condition. Other views into the garden of No 60 are more direct than they are towards the garden of No 64, however, taking the same range of considerations into account, they cause no unacceptable harm.

10. Two small windows are positioned at ground floor and first floor level within the side elevation of No 64 facing towards, and overlooking No 62. These appear to be secondary windows, with the principal outlook provided by large windows set in the rear elevation which cannot be viewed from the balcony.

11. The balcony is not located close to the side windows. Though a view towards that at ground floor level is possible from the part of the balcony closest to it, this view is only partial given that an extension of No 62 lies between.

12. A view towards the first floor window is also possible from the balcony. This window is however located at a higher level than the balcony, and it is also obscured. The occupants of No 64 state that the window was obscured in response to the development. However, be that as it may, it does not alter the fact that it is now obscured. This secures the privacy of the occupants. Even if it wasn't obscured, a similar function could be reasonably achieved by the normal fitting of blinds. As such, and in light of my reasons above, no unacceptable harm arises to the privacy of occupants of No 64.

13. Sideways views exist directly towards principal openings serving ground floor living spaces in the rear elevation of No 60. This is again intrusive. However, as outlined above, this intrusion could be addressed by increased screening.

14. The appellant has indicated a willingness to install higher screening along the side of the balcony facing No 64. Such screening would have little effect other than to restrict views towards the side elevation of No 64, and, in view of my reasons above I see no necessity to require its installation. Increased screening of the side of the balcony facing towards No 60 is however necessary.

15. For the reasons outlined above I conclude that, subject to additional screening, the balcony would not cause unacceptable harm to the living conditions of occupants of neighbouring dwellings on account of the loss of privacy. The development would therefore comply with Policy QD27 of the Brighton and Hove Local Plan 2005 which states that planning permission will not be granted where it would cause material nuisance and loss of amenity.

Conditions

16. The Council has requested a condition requiring the development to be carried out in accordance with the approved plans. However, this condition is not appropriate given that the development has already been implemented. I have however made reference to the plans within my decision.

17. The Council has also requested a condition requiring that the materials used should match those in the existing building. However, this condition is again inappropriate given both the prior implementation of the development, and fact that the materials used do not match those used in the main dwelling. I have therefore not imposed this condition.

18. I have imposed a condition requiring the installation of additional screening to the side of the balcony facing No 60 in order to safeguard privacy.

Conclusion

19. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR