
Appeal Decision

Site visit made on 2 June 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2020

Appeal Ref: APP/V1260/D/19/3242635

Flat 6, 33 Grand Avenue, Bournemouth BH6 3SY

- 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 Charlie Thorpe against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2019-5699-D, dated 2 April 2019, was refused by notice dated 12 September 2019.
 - The development proposed is replacing a window for a door, laying a ply/felt floor, metal rail and privacy screens.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development has already been carried out and therefore I am considering this appeal retrospectively.

Main Issues

3. The main issues are:
 - a) The effect of the development on the character and appearance of the area; and,
 - b) The effect of the development on the living conditions of the occupants of 12 – 18 Southern Road, 31 and 35 Grand Avenue, and the other flats at 33 Grand Avenue with regard to privacy and noise.

Reasons

Character and appearance

4. 33 Grand Avenue is one of a straight row of substantial, detached, two-storey buildings arranged on a rigid building line. They are of red brick construction with ornamented window surrounds, and have plain clay-tiled roofs, with decorated gables and finials. The uniformity of the design and arrangement of the buildings, and the tree-lined nature of the avenue, gives this row of buildings a distinctive quality.
5. Flat 6 occupies the roofspace of the building, and is lit by dormer windows. The proposal, which has already been completed, involved the alteration of one of the rear dormer windows, to provide a doorway access to the flat roof of an

existing two-storey extension that runs across the rear elevation of the building. The resultant balcony has been decked and covered in artificial turf. It is enclosed by steel balustrades, to which willow hurdles and plastic foliage have been fixed, to provide a greater degree of visual enclosure.

6. The balcony is not visible from Grand Avenue, so it does not affect the distinctive character of the front façade of the buildings. It can be seen from the west, through the gap between 14 and 16 Southern Road. From here, it is viewed against the backdrop of the roof, and the transparency of the balcony screen allows the form of the building behind to predominate. As a result, it is not a conspicuous feature. Furthermore, as it is only glimpsed between buildings, the balcony does not result in harm to the street scene from this viewpoint.
7. The rear elevations of the Grand Avenue buildings are, however, also visible from Pine Avenue to the south. From here, the regular pattern of buildings, and the marked symmetry of their upper elements is evident. The common eaves line, roof slopes and materials, and regular pattern of similarly proportioned dormer windows, results in a pleasing rhythm to the roofscape. The balcony protrudes into this vista at a higher level than any of the other additions to the rear elevations. It is therefore a prominent feature, jutting out beyond the roof slope and silhouetted against the sky. The lightweight appearance of the willow screening is out of keeping with the robust nature of the buildings. Consequently, the balcony is an intrusive and incongruous feature that fails to respect the qualities of the surrounding development.
8. I am mindful that the appellant has indicated a willingness to consider alternative means of enclosure and screening for the balcony edges. However, any substitute would have to be of an appropriate height and solidity, in order to provide privacy for users and surrounding occupants. Consequently, other proposals are likely to have a similarly harmful impact on the appearance of the area. Whilst there are some other balconies in the locality, they are at a lower level, and do not intrude into the roofscape in the way the appeal proposal does. They do not, therefore, weigh in favour of the development before me.
9. I therefore conclude that the proposal is harmful to the character and appearance of the area. As a result, it is contrary to Policy CS41 of the Bournemouth Local Plan: Core Strategy (2012) (the Core Strategy), which seeks to ensure that new development is designed to respect the site and its surroundings. It would also be contrary to the aims of the National Planning Policy Framework (the Framework) to achieve well-designed places.

Living conditions

10. The buildings in Grand Avenue are in a parallel, back to back, arrangement with those in Southern Road. The Council's Residential Development: A Design Guide (2008) (the Design Guide) advises that back to back distances between parallel 2 or 3 storey buildings should be 21 metres. This is extended to 25 metres for three-storey buildings with rear facing living room windows. The separation varies along the road, depending on the depth of the buildings, but is generally at a distance that respects the privacy of occupants. Based on the evidence before me, the dormer windows serving Flat 6 are more than 25 metres from the upper floor windows of the directly opposing building. The addition of the balcony, however, allows occupants of the flat to advance to a

distance less than 25 metres from the rear windows, resulting in closer overlooking.

11. I saw that, when standing on the balcony edge, it was possible to look over the willow screen towards the windows and gardens of the properties in Southern Road. Views of the rear of No 12 were obscured by high boundary vegetation, and those to No 18 were at an angle, with intervening outbuildings, and at a distance in excess of 25 metres. I therefore find that there would be no harmful overlooking of these properties.
12. The rear windows of Nos 14 and 16 were visible, but at sufficient distance that there was no loss of privacy within the buildings. Views down into the gardens of these properties were at closer quarters, giving rise to some impact on the privacy of occupants. However, I saw that the willow and foliage screening prevents such overlooking when sitting on the balcony, and also reduces the overlooking that was previously possible from within the flat. I am also mindful that a similar level of overlooking is already possible from the first-floor windows in the residential accommodation directly below the balcony. For these reasons, I conclude that the balcony does not give rise to a harmful loss of privacy for the occupants of these properties.
13. 31 Grand Avenue has a first-floor terrace close to the side boundary of the appeal site. The balcony overlooks this terrace from a higher level and at close quarters. I saw that this overlooking was particularly marked when looking over the screen on the balcony edge. However, even from a seated position, I saw that the willow hurdles did not prevent overlooking of the terrace, as the gaps between the twigs allowed clear views through the screen. The balcony also allows for views down into the rear garden of the property from a dominant vantage point. The resultant overlooking is much more intense than is the case from the existing windows in the flat, or any other building, and therefore results in a harmful loss of privacy for the occupants of No 31.
14. The back of 35 Grand Avenue is roughly in alignment with that of the appeal building. The balcony does not project so far as to enable views back into windows in the rear elevation, so there is no loss of privacy within the building. However, the balcony enables views down into the private rear garden, which were not previously possible from within the flat. Views down into the rear garden of the ground floor flat of the appeal building are also much more extensive, and from a very commanding position. Whilst these gardens may already be overlooked by surrounding windows, such views are from within buildings, and would not therefore be as intrusive and dominant as is the case from the balcony. Furthermore, as the balcony is the only outdoor space for the flat, it is likely to be regularly used, so there would be a heightened perception of overlooking for occupants of these gardens, which would be harmful to their living conditions.
15. It is contended that the flat roof was already used as an informal outdoor amenity space. However, there was no doorway access, and no balustrades, so it would not have been convenient or safe to use. The balcony, as constructed, is easily accessible from the main living accommodation, and consequently provides a secure and comfortable environment. It is therefore likely to be used with much greater regularity and intensity than was previously the case, leading to significantly greater impacts on the privacy of the occupants of surrounding properties.

16. The balcony is large enough to accommodate a group of people, so could be used for social gatherings. However, it is unlikely that such events would be a regular occurrence. Although a representation refers to noise disturbance from the playing of music, this could occur from the flat with the window open, so is not necessarily linked to the construction of the balcony. The appellant has detailed the measures that were incorporated to avoid the transfer of noise to the flat below, but no expert report to demonstrate the efficacy of the work has been supplied. Nevertheless, had I been minded to allow the appeal, I could have imposed a condition requiring submission of a noise report, and the implementation of any necessary remedial works. I do not therefore find that the balcony would inevitably result in noise disturbance for surrounding occupants.
17. However, for the reasons given above, I conclude that the balcony does result in a harmful loss of privacy for the occupants of 31 and 35 Grand Avenue, and the ground floor flat at 33 Grand Avenue. The proposal is therefore contrary to Policy CS41 of the Core Strategy, which seeks to ensure that new development enhances the amenities of neighbouring residents. It would also be contrary to the aims of the Framework to ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR