



Appeal Decision

Site visit made on 23 November 2020

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09/12/2020

Appeal Ref: APP/G5180/D/20/3249711

32 Sunningvale Avenue, Biggin Hill, Kent TN16 3BU

- 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 Kenneth Collinge against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/05072/FULL6, dated 13 December 2019, was refused by notice dated 12 February 2020.
 - The development proposed is described as a 'first floor rear balcony (retrospective planning application)'.
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Decision

1. The appeal is allowed and planning permission is granted for the first floor rear balcony at 32 Sunningvale Avenue, Biggin Hill, Kent TN16 3BU in accordance with the terms of the application, Ref DC/19/05072/FULL6, dated 13 December 2019, subject to the following condition:

1. Unless within 2 months of the date of this decision a scheme showing details of the proposed 1.7m high obscure glass screens, as depicted on drawing nos. A-005A and A-006A is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the balcony shall cease until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the balcony shall cease until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matter

2. The first floor rear balcony is already in place, although the '1.7m high obscure glass screening' shown on drawing nos. A-005A and A-006A has not been installed. I have dealt with the appeal on this basis, but I have omitted

reference to the retrospective nature of the application in my formal decision as that is not an act of development.

Main Issues

3. The main issues are the effect of the development on:

- the character and appearance of the host property and the area; and
- the living conditions of nearby occupiers, with particular regard to noise and privacy.

Reasons

Character and appearance

4. Sunningvale Avenue traverses a hillside, with properties in a variety of styles to either side. They include detached, semi-detached and terraced houses, faced in a broad palette of materials. Some have terraces or balconies.
5. The host property appears single storey from the road, but on this sloping site, has a larger scale to the rear. Whilst the rear balcony is raised well above the ground, its supporting steel posts are fairly slender. Those posts, and its open timber balustrade, whose colour broadly reflects the host's buff brickwork, give the structure a very limited bulk, and a lightweight appearance.
6. The proposed obscure glass screens would be set in slightly from the sides of the building, with a depth of around 1.9m, a height of 1.7m, and a slim profile. As a result, they would not add significantly to the structure's mass.
7. Consequently, the balcony with its proposed screens, even in this elevated position, would not harm the character and appearance of the host property or the area.
8. For those reasons, the scheme as proposed would not conflict with Bromley Local Plan 2019 ('BLP') Policies 6 and 37. Amongst other things, they require a high design standard; and require development, including extensions, to complement the scale, form and materials of the host dwelling and the buildings in the area.

Living conditions

9. A degree of overlooking and disturbance is common in residential areas such as this. However, given the steep hillside location, the view from this balcony is predominantly over the roofs of the dwellings in Victoria Gardens to the distant countryside. The topography, the distance, and the screening afforded by fences and landscaping, significantly limits overlooking of those dwellings and their gardens.
10. Without the proposed screens, there is a line of sight from the balcony back to the rear faces of 32a and 32b Sunningvale Avenue; albeit that is a rather contrived outlook given those dwellings' significant set-back, the slight set in of the balcony, and the attractive views to the west. However, without screens, there is a view straight down onto the adjacent terrace of 30f Sunningvale Avenue, and onto the gardens of Nos 32a and 32b. From this elevated position, and at these close quarters, that overlooking significantly harms those occupants' privacy.

11. That impact would be significantly mitigated by the erection of the proposed 1.7m high obscure glass screens. As well as limiting overlooking of those properties, they would also help direct views to the west.
12. Whilst the balcony is next to one of the host property's main habitable rooms, and is large enough to sit outside on, I am not persuaded that reasonable domestic use of it would give rise to significant noise and disturbance to adjacent occupiers, greater than may be expected in a residential area.
13. For the above reasons, and subject to the erection of the proposed screens, the scheme as proposed would not impact the living conditions of nearby occupiers to a harmful degree. Whilst BLP Policy 6 is of little relevance on this issue, the scheme would not therefore conflict with that part of BLP Policy 37 which requires development to respect neighbouring occupiers' amenity.

Conditions and Conclusion

14. Turning to the matter of conditions, as the balcony is already in place, neither the Council's suggested time limit for implementation, nor a condition requiring that the development be carried out in accordance with the approved plans is necessary or appropriate. For that reason, and as I have found the balcony's materials to be acceptable, the condition at 11.b of the questionnaire is also unnecessary.
15. The 1.7m high obscure glass screens are not in place, but are necessary to protect nearby occupiers' living conditions. Further details of those screens, particularly the level of obscure glazing, are required.
16. My condition is therefore imposed to ensure that further details of the proposed privacy screens as identified on the drawings are submitted, approved and implemented, so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively-worded condition to secure the implementation of the privacy screens before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.
17. Summing up, with the proposed screens the scheme would not harm the character and appearance of the host property or the area; nor harmfully impact the living conditions of nearby occupiers. I have no details of the refused scheme at No 32b cited by a local resident, but for the above reasons, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR