The Planning Inspectorate

Appeal Decision

Site Visit made on 9 December 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2020

Appeal Ref: APP/B3030/D/20/3263190
9 Marriott Lane, Blidworth, Mansfield NG21 0QF

- 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 Mrs Janet Charlton against the decision of Newark & Sherwood District Council.
- The application Ref 20/01201/FUL, dated 3 July 2020, was refused by notice dated 1 September 2020.
- The development proposed is first floor balcony to rear of the property.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupants of 7 Marriott Lane and East View, with particular regard to privacy.

Reasons

3. The proposal would result in the installation of a balcony to a first floor bedroom window at the rear of the host dwelling. The existing window already provides some opportunity to see into the rear garden of the neighbouring property known as East View and into the amenity space of No 7. There is one downstairs and one upstairs window in the elevation of No 7 which face the site, and which are in clear view from the bedroom window.

4. While some overlooking is inevitable in residential locations, this does not mean that all forms of overlooking should be considered acceptable. The balcony would allow the occupants of the host dwelling to sit outside at an elevated level. This creates a significantly different context to what is currently in place.

5. For example, being able to access and sit on the balcony would increase the range of visibility and allow more direct views into the garden of East View than are available at present. Any potential for overlooking would also be significantly more overt. When the balcony was being used, its elevated position in such close proximity to the common boundary would give anybody in the neighbouring garden an unwelcome sense of being observed. In my view, this would tangibly diminish the enjoyment of that space to the significant detriment of any occupants' living conditions.

6. I have no particular concerns about the overlooking of No 7's amenity space as this does not appear to be in use for sitting out. As such, it is unlikely to be

used for long periods. However, the distance between the facing windows between the dwellings are already relatively narrow. The balcony would reduce that distance even further. This, coupled with the change in usage that the balcony would facilitate, would result in a somewhat unneighbourly relationship. This would particularly manifest itself through the potential loss of privacy associated with the bedroom window of No 7. While this is a relatively small window, it would nevertheless be at a similar height to the balcony. Sitting out on the balcony would also negate any privacy benefits that might exist in terms of the angle between dwellings. The use of the balcony would likely increase the risk and perception of being viewed directly through that window. Again, this would be harmful to the living conditions of the occupants of this house.

7. The rear garden space of No 9 is not particularly generous. Nevertheless, it still provides an opportunity to sit outside. I acknowledge the appellant's desire to take advantage of views of the countryside available from the first floor. This does not however justify allowing something which would result in harm to the living conditions of neighbouring occupants.

8. In conclusion, I therefore find that the balcony would result in an unacceptable level of overlooking and both a perceived and actual loss of privacy to neighbouring residents. The development would therefore have an unacceptable impact on living conditions. Accordingly, there would be conflict with Newark and Sherwood Amended Core Strategy (2019) Core Policy 9 and policies DM5 and DM6 of the Newark and Sherwood Allocations and Development Management Development Plan Document (ADMDPD) (2013). These seek, amongst other things, to ensure development does not result in adverse impacts on the amenities of neighbouring users.

Other Matters

9. The site lies within the Blidworth Conservation Area (BCA). The Council did not object to the development on this basis and I have seen nothing that would lead me to a different conclusion. The proposal relates to a relatively modern dwelling and would be discretely located to the rear of the house. On this basis, I am satisfied that the development would not result in harm to the character or appearance of the BCA.

10. I note the appellant contends that ADMDPD policies DM5 and DM6 should not have been referred to in the reason for refusal because the Council did not find any harm in terms of character and appearance. However, these policies also cover a range of factors, including the effect of development on living conditions, and thus they are relevant.

11. The appellant has suggested that she was not given the opportunity to amend the scheme to address the Council's concerns prior to their decision. However, I must consider the proposal before me and thus this does not alter my conclusion.

12. No objections have been received from any neighbouring occupants. The appellant has suggested that neighbours are fully in support of the proposal. As far as I have been made aware, there is no documentary evidence to support this assertion. However, even if this were the case, I must consider the long term effects of the development. It may be that future occupiers of neighbouring dwellings would not be as accommodating as those at present.

13. The appellant has drawn my attention to proposals elsewhere in the area which she considers are similar to the development and which have been accepted. I do not have the full details of these proposals and thus it is not possible for me to conclude with any certainty that they are directly comparable to the development. However, from the information provided, it appears that these permissions relate to 'Juliette' balconies which generally do not allow people to sit outside. As such, they are likely to be materially different to the proposal before me. I was also able to see that the balcony relating to East View would have a different impact, as it has a different relationship to its neighbours than the host property.

14. The appellant has also provided extracts from a number of appeal decisions[1] where balconies have been accepted. Again, I do not have the full details of these proposals before me. While I have no doubt that there will be circumstances where balconies would be acceptable, this is very much dependent on the individual context and relationship with neighbouring properties. I have concluded that, in this instance, the relationship between the development and neighbouring dwellings would result in unacceptable harm. On this basis, the appeal decisions do not lend any particular weight to the proposal.

Conclusion

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

S J Lee

INSPECTOR

[1] APP/K1128/W/17/3180061; APP/K3245/D/12/2174981; APP/X3025/D/17/3179415