



Appeal Decision

Site visit made on 29 December 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal Ref: APP/P4415/D/20/3258345

3 Greystones Court, Harthill, Rotherham S26 7YR

- 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 Hilary Morrison against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2020/0517, dated 30 March 2020, was refused by notice dated 24 July 2020.
 - The development proposed is balcony to rear of property.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The development shown on the proposed plans has been partly carried out with the balcony already in situ. I have therefore treated this element of the proposals as being retrospective for the purposes of my assessment.
3. The Council requested an access required site visit be undertaken in order to 'view from balcony over neighbours private land'. On arrival at the previously agreed day and time, a representative of the appellant did not meet me to assist in terms of access to the appeal site. However, I was still able to obtain a full appreciation of the site and its surrounding context, including the relationship of the development with neighbouring properties, from the public footpath to the rear of the site. On this basis, I am content that I am in a position to assess the main issue and proceed with my decision.

Main Issue

4. The main issue is the effect of the development on the living conditions of occupiers of the neighbouring dwellings at No 4 Darley Close and No 2 Greystones Court with particular regard to privacy.

Reasons

5. The Rotherham Local Plan Householder Design Guide Supplementary Planning Document (2020) (SPD) states amongst other things that balconies should be sited 'so that they do not directly look into the habitable windows of adjacent houses or their private gardens' and that 'they must be a minimum of 2 metres from any neighbouring boundary with appropriate screening to avoid any overlooking.

6. It was clear on my site visit that the height and design of the balcony and its position in close proximity to the boundary with No 4 Darley Close facilitates views into the rear garden serving this neighbouring property. I also noted that users of the balcony would be able to look towards a ground floor window at No 4 which is set away from but faces towards the shared boundary.
7. Even though the balcony is set further away from the boundary with No 2 Greystones Court, from what I saw and as illustrated by the photographic evidence provided by the appellant, this does not fully mitigate opportunities to look into the rear garden serving this neighbouring dwelling. The proposed staircase had not been installed at the time of my visit. However, if constructed this would introduce a further structure that would allow for closer views of the garden serving No 2.
8. In both cases, when in use the balcony would be likely to result in a significantly harmful effect on the privacy of the occupiers of these neighbouring properties. The appellant contends that it was previously possible to obtain views towards No 2 Greystones Court through glazing that was present to the side elevation of the first-floor conservatory on the appeal dwelling. During my site visit, I also noted the first-floor windows to the rear elevation of the host dwelling. However, I must assess the specific impact of the development which extends further to the rear of the host dwelling and provides a more direct line of sight towards neighbouring gardens and the aforementioned window at No 4.
9. Views of the rear gardens of No 2 Greystones Court and No 4 Darley Close, that can be obtained from the public footpath to the rear of these properties, are more likely to be of a transient nature for passers-by. Furthermore, the substantial hedge to the rear boundary of No 4 and the trees within the rear garden of that property also help to screen views from the footpath. In contrast, there is a greater likelihood that users of the development would sit out or stand on the balcony for extended periods and this would be in closer proximity to the garden areas immediately to the rear of these neighbouring dwellings and the identified window at No 4. Therefore, I do not find views from the footpath are comparable to the actual and perceived effect of the development on the privacy of neighbouring occupiers.
10. The appellant queries whether conditions could be attached to overcome the harm identified in order to allow planning permission to be granted. I acknowledge that a condition to prevent installation of the staircase would be reasonable to remove the potential for overlooking impacts from this part of the development. However, a reduction in depth of the balcony would not on its own remove the harm identified. No detailed information is before me as to the potential height, composition and appearance of any screening to the sides of the balcony. I therefore cannot be certain that a condition would secure screening that would be both effective in protecting the living conditions of neighbouring occupiers and also acceptable in terms of its impact on the character and appearance of the area. Such a condition would also deprive those who should have been consulted from an opportunity to comment.
11. I conclude that the development results in significant harm to the living conditions of neighbouring occupiers at No 4 Darley Close and No 2 Greystones Court with particular regard to privacy. The development therefore conflicts with the parts which seek to create decent living environments in Policy SP55

(Design Principles) of the Rotherham Local Plan Sites and Policies (2018). The development also conflicts with the Council's SPD and Paragraph 127 of the National Planning Policy Framework which amongst other things states that decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

12. The requirements of a separate enforcement notice are not material to my assessment of the scheme for which planning permission is sought. My attention has been drawn to a letter from the occupiers of one of the neighbouring properties affected which indicates their support for the proposal. Even so, this does not override the harm identified or the need to protect neighbouring living conditions in the longer term. The existence of a balcony on another property in Harthill does not persuade me that the specific harm I have identified would be justified.

Conclusion

13. For the reasons set out, the appeal is dismissed.

M Russell

INSPECTOR