



Appeal Decision

Site Visit made on 2 June 2021

by Paul Martinson BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2021

Appeal Ref: APP/A1015/W/21/3269368

24 Springfield Avenue, Chesterfield S40 1DJ

- 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 Matt Wyatt against the decision of Chesterfield Borough Council.
 - The application Ref CHE/20/00748/RET, dated 28 October 2020, was refused by notice dated 15 December 2020.
 - The development is formation of balcony over ground floor flat roof including glass balustrade.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The balcony is already in place, although the 1.8 metres high 'frosted glass panel' shown on drawing 20 8/3 has not been installed. I have dealt with the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupants of neighbouring properties with particular regard to privacy and potential for noise and disturbance.

Reasons

4. 24 Springfield Avenue is a detached dwelling within a predominantly residential area. On the site visit I saw that the overwhelming character of the area is of dwellings arranged in a standard pattern with greater degrees of privacy to the rear. Rear gardens are generally enclosed, affording relatively good levels of privacy that individuals would legitimately expect to be appropriately protected. The rear garden of No 24 is enclosed by a standard height fence which limits views of neighbouring gardens. The rear gardens of No 22 and No 26 are also enclosed by high fences, supplemented by vegetation.
5. Whilst there is a degree of separation between the dwelling at No 22 and No 24, the dwelling at No 26 is positioned very close to the boundary with No 24. A single storey lean-to extension at No 26 and a flat roofed single storey extension at No 24 have been constructed roughly in line with one another, adjacent to the boundary.
6. The balcony has been constructed on the flat roof of the flat roofed extension adjacent to the side boundary with No 26. It is accessed via a glazed doorway from a first floor bedroom. The edge of the balcony is roughly in line with the

adjacent two storey rear extension at the appeal property, the side elevation of which adjoins the edge of the balcony. The remaining two sides of the balcony are enclosed by a 1.1 metre high frosted glass balustrade. The proposed plans show that this would be increased to 1.8 metres high along the side boundary with No 26.

7. On the site visit I saw that the position of the balcony immediately adjacent to the boundary with No 26 meant that it was possible to overlook large parts of the rear garden of that dwelling. I note that this was possible even standing centrally and back from the edges of the balcony. In my experience the use of a balcony, albeit intermittently, inevitably results in increased potential for overlooking and the perception of being overlooked, than views through a window.
8. Due to the position of the single storey extension at No 26 in line with the balcony, and the close proximity of the two dwellings, I saw most views of the rear garden at No 26 are over the rear balustrade rather than that to the side. Consequently, I am of the view that the proposed frosted glass panel would not significantly limit views towards the neighbouring garden.
9. The presence of the existing two storey extension at No 24 and the setback from the boundary with No 22, as well as the position of a flat roofed outbuilding adjacent to the boundary, helps to lessen views from the balcony towards the garden of No 22. Nonetheless I saw that standing on the edge of the balcony, it was still possible to overlook parts of the rear garden of that dwelling.
10. The balcony is reasonably prominent on the rear of the dwelling and is likely to be easily visible from parts of the rear garden of No 22. This, in my view, is likely to lead to residents of that property experiencing a significant increase in the perception of being overlooked when in their garden, which alongside the increased potential for direct overlooking, is likely to have considerably reduced the privacy levels in that garden, relative to the prevailing baseline above.
11. Whilst the appellant indicates fencing demarcating part of the boundary was formerly lower, I have assessed the scheme based on present circumstances. I have had regard to the letter provided by the appellant from the occupier of No 26 in support of the balcony. However, future occupiers of No 26 may not share this view, given the extent of overlooking that may occur. In itself the lack of objection to a scheme does not mean that it is acceptable in planning terms.
12. I have had regard to the photographs of other examples of balconies nearby, provided by the appellant. Whilst I have not been provided with full details of these or the circumstances that led to them being approved, I can see clear differences between them and the appeal development, most notably, that they relate to either the front of a dwelling, where expected privacy levels are likely to be much lower or they relate to a what appears to be a block of flats.
13. The Council has raised concern that the height of the proposal and its function would create opportunities for noise generation which could affect nearby residents and the fundamentally quiet residential character of the area. However, the appeal site has an existing patio and seating area at ground level, and I have not seen any evidence that the proposal would be likely to

lead to noise or disturbance significantly beyond that which could be reasonably expected to arise from those existing outside spaces.

14. Nevertheless, for the above reasons I conclude that the proposal would result in an adverse effect on the living conditions of the occupants of No 22 and No 26 Springfield Avenue in conflict with Policies CLP14 and CLP20 of the Chesterfield Local Plan (2018) which, in summary and amongst other things, seek to provide high standards of design with regard to living conditions. Whilst I accept that the balcony would be likely to be used intermittently, such use is likely to materially reduce current levels of privacy enjoyed by the occupants of neighbouring properties.

Conclusion

15. For the reasons given, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR