



Appeal Decision

Site visit made on 27 July 2021

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal Ref: APP/P0240/D/21/3271398

The Hedges, 17 Dunstable Road, Tilsworth, Leighton Buzzard, LU7 9PU

- 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 Laura Hewitt against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/04639/FULL, dated 16 December 2020, was refused by notice dated 12 February 2021.
 - The development proposed is the creation of a roof terrace.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged, the Council has formally adopted the Central Bedfordshire Local Plan 2015 – 2035 (LP). In addition, a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In my opinion, both documents do not materially change the planning policy context in respect of the main issue. However, in reaching my decision, I have taken into account the content of both documents.
3. The roof terrace has been created and the proposal is, therefore, to retain the development.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupants of neighbouring dwellings, with particular regard to privacy and noise and disturbance.

Reasons

5. The appeal property is a semi-detached dwelling with first floor accommodation at the rear containing a dormer window with French doors that lead from a bedroom out onto a roof terrace. The terrace is on top of a flat-roofed single storey earlier addition. It is enclosed by a glazed screen, approximately waist high. The terrace covers the width of the dwelling and extends across the full depth of the flat roof.
6. Policy HQ1 of the LP seeks (amongst other things) to ensure that proposals for new development respond to the character of their surroundings and do not have an adverse effect upon nearby existing uses in terms of amenity, privacy

and noise. In addition, paragraph 130 of the Framework states that planning decisions should ensure that developments are visually attractive and create places with a high standard of amenity for existing and future users.

7. I consider the roof terrace to be visually acceptable. Its physical form and glazed screening are relatively discreet and it does not have an adverse effect on the character or appearance of the dwelling and its surroundings.
8. However, notwithstanding the fact that views of the neighbouring gardens at numbers 15 and 19 Dunstable Road (numbers 15 and 19) can be obtained by standing at the French windows in the bedroom, use of the terrace affords views directly onto the more private and intimate areas of the neighbouring properties and gardens. These include oblique views into the bedroom window of number 15 and direct views into the side kitchen/utility room window at number 19. I consider that this overlooking is a significant threat to the privacy of the neighbouring occupants and is detrimental to their amenity.
9. Furthermore, the use of the terrace as an outdoor space has the potential to cause noise and disturbance to neighbouring residents, particularly to the occupants of number 15 due to the close proximity of their bedroom window. Therefore, the proposal conflicts with the Policy HQ1 of the LP and with the relevant provisions of the Framework.
10. In reaching my decision I have taken into account the possibility of planting along the edge of the terrace to help reduce the impact on neighbours. However, I am not persuaded that this would be sufficient to mitigate the harm that I have identified.
11. I have also taken into account that planning permission for the French doors was granted in 2015 and that the glazed screening has replaced safety wire that previously formed an enclosed terrace. In that regard, the appellant has raised the possibility of the development being lawful. However, it is not within my remit to determine the lawfulness of the development, as this is a matter between the appellant and the Council in the first instance.

Other Matter

12. The appeal property is situated within the Green Belt. The Council considers that as the proposal does not increase the footprint of the property and it is not an "enclosed built form", there is no impact on the openness of the Green Belt, notwithstanding the fact that the original dwelling footprint has been extended by some 60%. Both the LP (Policy SP4) and the Framework seek to prevent inappropriate development in the Green Belt, which includes disproportionate extensions to buildings. In this case, I have no reason to disagree with the Council's assessment and I consider that the proposal does not conflict with Green Belt policy.

Conclusion

13. For the reasons given above in respect of living conditions, it is concluded that the appeal be dismissed.

Ian McHugh

INSPECTOR