
Appeal Decision

Site visit made on 15 October 2021

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal Ref: APP/P0240/D/21/3277586

5 Knotts Close, Dunstable LU6 3NY

- 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 Mark Benson against the decision of Central Bedfordshire Council.
 - The application Ref CB/20/02898/FULL, dated 17 August 2020, was refused by notice dated 29 April 2021.
 - The development proposed is retrospective: to erect a glass/chrome barrier around an already established flat roof to the rear of the property to form a balcony.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Mark Benson against Central Bedfordshire Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have taken the description of development above from the Council's decision notice as this is a more concise version of the appellant's original description and clarifies that planning permission is sought retrospectively. The appellant has adopted this description in their appeal form, confirming it is the development they are seeking planning permission for.
4. Since the appeal was lodged, the Central Bedfordshire Local Plan 2015-2035 (July 2021) has been adopted. Consequently, the South Bedfordshire Local Plan Review (January 2004) and Policy BE8 and H8 have been replaced by Policy HQ1. A revised version of the National Planning Policy Framework (the Framework) was also published in July 2021. The aims of the relevant new LP policy and the guidance in the Framework are similar to their predecessors and I am satisfied that no interested party has been prejudiced by these changes.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupants of neighbouring dwellings, with particular regard to visual amenity and privacy.

Reasons

6. No.5 Knotts Close (No.5) is a two-storey detached dwelling with patio doors to first-floor bedrooms to the rear that lead to a flat roofed single storey extension. A glass and chrome barrier at a height of around 1m has been erected around the perimeter of the flat roof to form a balcony. The glass barrier is frosted to the sides closest to the immediate neighbours at No.3 and No.7 Knotts Close (No.3 and No.7).
7. I find the glass and chrome barrier to be acceptable in its appearance. It is a reasonably light weight structure that does not dominate the rear elevation of No.5, appearing a sympathetic addition to it. I do not therefore find it causes harm to the character and appearance of the host dwelling or the visual amenities of neighbours.
8. However, because of its elevated position and proximity to neighbours, the balcony affords views over most of the tiered garden of No.3 and No.7. Although there is some existing landscape screening on the boundary between No.5 and No.7, the patio areas closest to both neighbouring dwellings, where a high degree of privacy is usually afforded, would be directly overlooked. The frosted glass on the sides of the barrier does largely mitigate overlooking of the patio areas if sitting on the balcony, but I nevertheless find the overall overlooking to cause significant harm to the privacy of neighbours.
9. Consequently, the proposal conflicts with Policy HQ1 of the Central Bedfordshire Local Plan 2015-2035 (July 2021) and with paragraph 130 of the Framework which together seek to ensure a high standard of amenity is retained for existing and future users. It would also conflict with the guidance in the Central Bedfordshire Design Guide (2014) that first-floor balconies can have a significant impact on the amenity of adjoining neighbours and should be avoided where this is likely.
10. I have taken into account the appellant's comments about the flat roof already being accessible from the first-floor patio doors, but it is the Council's evidence that the roof is restricted from use as a balcony. I have no evidence before me to counter this evidence and I find the depth and full width of the balcony to give rise to a greater loss of privacy than a Juliette balcony. The existing access does not therefore alter my conclusion on the main issue.
11. I have also noted the examples of other developments drawn to my attention by the appellant. However, I have been provided no details of these developments save they are either roof terraces or balconies. On the evidence before me, I am unable to determine whether they have any similarities with the appeal proposal. In any event, planning decisions are taken on their individual merits and particular site characteristics, as I have done.

Conclusion

12. For the reasons given, and taking all other matters into account, I conclude the appeal should be dismissed.

R. Jones

INSPECTOR