
Appeal Decision

Site visit made on 21 January 2022

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 JANUARY 2022

Appeal Ref: APP/W3005/D/21/3287652

Lynwood, 276 Fackley Road, Teversal, Sutton in Ashfield NG17 3JB

- 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 Ross Whetton against the decision of Ashfield District Council.
 - The application Ref V/2021/0579, dated 20 July 2021, was refused by notice dated 8 October 2021.
 - The development is the erection of a balcony to rear.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposed balcony is in place. It appears to be broadly in accordance with details shown on the submitted plans.

Main issue

3. The main issue is the effect of the development on the occupiers of the properties called Glencarn and Counting House, with particular regard to privacy.

Reasons

4. Lynwood is a detached dwelling that lies within a mainly residential area. Due to the notable difference in ground levels to the rear, the house occupies an elevated position relative to its long back garden and to the rear gardens of the properties on either side of the site, which are Glencarn and Counting House.
5. The appeal balcony projects outwards from the rear elevation of the main house at the first-floor level. A metal balustrade with glass infill panels have been placed around the perimeter of the balcony to prevent falls.
6. In my experience, some overlooking of neighbouring back gardens from the rears of detached houses is a common characteristic of the relationship between properties that stand side-by-side within built up areas. This would be evident from the first-floor rear windows of Lynwood from which there are likely to be views across the back gardens of Glencarn and Counting House. Similarly, there are likely to be views towards the rear outdoor space of Lynwood from some upper rear windows of these adjacent properties and the rear balcony of Glencarn.

7. Although modest in size, the balcony in question would be an appealing place for one or two people to stand or sit outside. From this position, users of the balcony are likely to have reasonably clear views of the back gardens of both Glencarn and Counting House. Given its elevated position and rearward projection, the overlooking possible of these gardens from the balcony would be noticeably greater and more sustained than would be the case from the first-floor rear windows of Lynwood.
8. Even if the balcony were not occupied, the structure is likely to be visible from the back gardens of these adjacent properties. To my mind, the presence of the balcony would heighten a sense of being overlooked compared to that of a rear window to the main house. For these reasons, I consider that the additional overlooking possible from the balcony, and the perception of being overlooked, would result in an unacceptable loss of privacy within these neighbouring gardens.
9. In reaching this conclusion, I have carefully considered whether conditions could be imposed to overcome these overlooking problems. However, a requirement that opaque glazing replace the existing transparent panels would not prevent views from the balcony over the top rail towards neighbouring gardens. A condition that requires the height of the perimeter screen be increased to prevent such views would materially alter the development for which planning permission is sought. Consequently, it would be inappropriate to impose such a condition.
10. I share the appellant's view that the existing rear balcony at Glencarn would allow views of the outdoor space at the rear of Lynwood. Although different in size and design to the development sought, I can appreciate that a balcony on a neighbouring property may seem unfair given that the Council has refused planning permission in this instance on the grounds of overlooking. However, the Council has explained that it approved the balcony at Glencarn well before its current policies and guidance were adopted. Irrespective, it seems to me that additional harm cannot be justified because some harm may already exist.
11. Therefore, I conclude on the main issue that the overlooking possible from the development unacceptably harms the living conditions of the occupiers of Glencarn and Counting House. Accordingly, it conflicts with Policies ST1 and HG7 of the Ashfield Local Plan Review and the Council's Supplementary Planning Document *Residential Extensions Design Guide* insofar as they aim to safeguard residential amenity. It is also contrary to the National Planning Policy Framework, which states that developments should create places with a high standard of amenity for existing and future users.
12. I acknowledge the value to the appellant and his family of using the balcony as a pleasant area to enjoy the open views especially beyond the rear of the property. However, as the house has a relatively large back garden, the additional amenity space provided by the balcony is insufficient to outweigh the significant harm that I have identified.

Conclusion

13. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR