
Appeal Decision

Site visit made on 27 January 2022

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 FEBRUARY 2022

Appeal Ref: APP/G2435/D/21/3288056
16 Cornfield Close, Ellistown, LE67 1GJ

- 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 Chris Pearson against the decision of North West Leicestershire District Council.
 - The application Ref 21/01937/FUL, dated 7 October 2021, was refused by notice dated 17 November 2021.
 - The development proposed is a single storey rear extension with balcony above.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension with balcony above at 16 Cornfield Close, Ellistown, LE67 1GJ in accordance with the terms of the application, Ref 21/01937/FUL, dated 7 October 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing: Proposed Plans & Elevations, Site Location Plan & Block Plan dated June 2021.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Prior to being brought into use, the balcony shall be fully fitted with obscure/frosted screen panels to a minimum of 1.8 metres high above the finished floor level of the balcony. These obscure panels shall thereafter be retained at all times.

Preliminary Matters

2. The description of development on the application form is 'single storey rear extension'. At validation stage, the Council amended the description of development to 'single storey rear extension with balcony above'. No objections were raised to this by the applicant. I have therefore used the Council's description of development, which is more precise.
3. The submitted drawings have the same title and date as those submitted with a previous application. For the avoidance of doubt, this appeal decision relates to the scheme with no external staircase.

Main Issue

4. The main issue is the effect of the development on the living conditions of occupiers of 23 Battleflat Drive and 14 Cornfield Close, with particular regard to overlooking.

Reasons

5. The appeal property is a detached house located on a corner plot within a modern housing estate. It has a detached garage to the rear, which restricts views into the rear garden of neighbouring No. 14 Cornfield Close.
6. No. 23 Battleflat Drive is located directly behind the appeal property and has no habitable room windows facing the appeal site.
7. I viewed the appeal site and its surroundings from the garden and the first floor bedroom windows to the rear of the appeal property. I also walked around the immediate surrounding area.
8. Although the estate is densely developed, with minimal separation distances between dwellings, due to the orientation of the buildings, the slight difference in levels, the boundary fencing and the siting of pitched roof detached garages in the rear gardens, the only garden I could see a significant part of, even from the first floor rear windows of the appeal property, was that of 23 Battleflat Drive to the rear.
9. I acknowledge that this garden is already overlooked by the first floor bedroom windows of the appeal property but generally speaking, most people do not spend long periods of time sitting and looking out of bedroom windows, whereas the point of a balcony is generally to sit outside on and enjoy a view. Moreover, the balcony proposed is of a size that would accommodate the whole family and visitors sitting outside on for long periods of time.
10. The submitted plans clearly identify the finished floor level of the balcony, which would be bound by a 600mm high wall with 1200mm high obscure glazed panels above, resulting in a 1800mm high privacy screen around the full extent of the balcony. Whilst not particularly attractive, I agree with the Council that given its infill corner position at the rear of the house the proposed balcony enclosure would not result in a level of harm that would justify a refusal of planning permission on design grounds.
11. The obscure glazed panels would restrict views not only of and from the proposed balcony but also views into and out of the existing first floor bedroom windows in the rear elevation of the appeal property. Accordingly, occupiers of both the appeal property and neighbouring properties would benefit from increased privacy levels, as a result of the proposal.
12. I therefore find no conflict with policy D2 of the adopted North West Leicestershire Local Plan, which states that development proposals will be supported where they do not have a significant adverse effect on the living conditions of residents through loss of privacy.

Conditions

13. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A condition relating to matching materials

is necessary to ensure that the appearance of the new development would be satisfactory. Although the approved plans showing 1.8m high balcony screening are conditioned, it is not clear from these that the screening would be obscure or frosted glazing. It is therefore necessary to add an additional condition, to ensure that the screening is truly obscure, that it is in place prior to the balcony being brought into use and that the obscure screening remains in place at the appropriate height for the life of the development, in order to protect the privacy of neighbouring gardens.

Conclusion

14. For the reasons given above the appeal is allowed.

Rachael Bartlett

INSPECTOR