



Appeal Decision

Site visit made on 7 March 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2022

Appeal Ref: APP/N4720/D/21/3289872

39 Woodbourne Avenue, Moortown, Leeds LS17 5PQ

- 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 Niall Mackinnon against the decision of Leeds City Council.
 - The application Ref 21/06293/FU, dated 20 July 2021, was refused by notice dated 18 October 2021.
 - The development proposed is retrospective application for a first floor balcony to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the Council's Decision Notice as this accurately represents the proposal. The description refers to the retrospective nature of the application, and the balcony was in place at the time of my visit.
3. It was requested that I viewed the proposal from the neighbouring property of 37 Woodbourne Avenue, and I was able to do so at my visit.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of residents of 37 Woodbourne Avenue with regards to privacy.

Reasons

5. The appeal site is a semi-detached dwelling which includes a ground floor extension to the rear. The proposals for the extension originally included a Juliet balcony at first floor level, and the appellant sets out that this was changed to a projecting balcony during the construction process.
6. The balcony which is the basis of the appeal proposal is located in close proximity with the boundary of No 37. Due to the projection of the balcony to the rear, this enables views of an intrusive nature into a first floor bay window serving a bedroom in No 37. Furthermore, as a result of the proximity, openness and elevated position of the balcony, it would also enable views directly into the patio and garden of No 37. Residents of No 37 would also be aware of activity on the balcony, which would increase their perception of being overlooked. These matters would lead to significant harm to the degree of privacy that neighbouring residents could reasonably expect.

7. The appellant refers to a first floor bay window which previously existed to the rear, and which would also have enabled elevated views to the side and rear of the property. However, those views would have been more restricted due to the positions of window frames and glazing, even given that the bay window projected closer to the boundary. The relatively restricted nature of the outlook was apparent in views from a similar window to the front of the property. The Juliet balcony originally proposed and the glazed doors would also enable views to the side and rear of the property. However, these would not have the same degree of projection as the appeal proposal, and would not enable views of the same extent. I therefore do not consider that the degree of overlooking afforded by the previous bay window, the Juliet balcony or the existing glazed doors justifies the more extensive views that are available from the balcony.
8. The appellant submits that the balcony would be used as a pot garden, with access only required for activities including maintenance and watering plants. However, there is no certainty that the use as a pot garden would endure. A condition to this effect would be difficult to enforce, and in any event would not address the perception of residents of No 37 of being overlooked. Even given the limited size of the balcony, it would enable access to the rear at first floor level in a position which would provide intrusive views of the neighbouring property.
9. Reference has been made to a potential privacy screen. However, such a screen in an elevated position in close proximity to the boundary would be an obtrusive feature in views from No 37. It would also be unlikely to prevent intervisibility between the balcony and the window of No 37 from people leaning over the rear railing, and would not prevent intrusive overlooking of much of the garden area of No 37.
10. The appellant refers to the original bay window being in need of repair, and that the proposed folding doors offer more light and thermal efficiency. However, these benefits could be provided by a Juliet balcony of a more suitable design, and do not weigh in favour of the appeal proposal.
11. The Council's Officer report refers to the effect of overlooking on 21 and 23 Carr Manor Road. However, due to the separation distances between the appeal proposal and those properties, I do not consider that the balcony would lead to an unacceptable degree of overlooking. Nevertheless, that does not negate my conclusions in respect of No 37.
12. I conclude that the proposal would lead to significant harm to the living conditions of residents of No 37 due to loss of privacy. The proposal would therefore be contrary to the amenity requirements of policy P10 of the Core Strategy 2019 and saved policy GP5 of the Leeds UDP Review 2006. The proposal would also conflict with the National Planning Policy Framework in respect of providing a high standard of amenity for existing and future users of land and property. The proposal would also be contrary to the advice of policy HDG2 of the Council's Householder Design Guide 2012 with regards to protecting the amenity of neighbours in respect of overlooking.
13. The Council has concluded that the proposal would not detract from the appearance of the host property and would comply with planning policies in that regard. However, the Council's conclusions on the issue of character and appearance do not outweigh the harm I have identified in respect of living conditions.

14. I note the frustrations expressed by the appellant in relation to the level of communication from the Council leading up to this appeal. However, this is not a matter for this appeal which I have determined on its planning merits.

15. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR