The Planning Inspectorate

Appeal Decision

Site visit made on 26 April 2022 by T Bennett BA (Hons) MSc

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2022

Appeal Ref: APP/J4423/D/22/3290819
58 Brooklands Crescent, Sheffield, S10 4GG

- 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 Adams against the decision of Sheffield City Council.
- The application Ref 21/03788/FUL, dated 21 August 2021, was refused by notice dated 26 October 2021.
- The development proposed is the addition of a balcony to the rear of the house on the first floor level (this is ground floor at the front of the house and first floor at the rear due to the previous basement development) and the addition of a door at the first floor level to access the balcony at the rear of the house.

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Council has altered the description of development from that which was originally applied for to *erection of first floor rear balcony to dwellinghouse.* However, whilst I am satisfied that the two different descriptions describe the same scheme, in the absence of a confirmation of any agreement to change the description, I must use that which was included within the original planning application forms.

4. The appellant has submitted amended plans with the appeal documentation which detail revised screening to the balcony. I have carefully considered the implications of accepting these plans in the light of the '*Procedural Guide – Planning Appeals – England'*, and the principles of the '*Wheatcroft*' judgement.

5. The Procedural Guide advises that an amendment to planning application proposals to overcome a local planning authority's reasons for refusal should normally be made through a fresh planning application, and the appeal process should not be used to evolve a scheme. The guide continues by stating that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

6. With regards the *'Wheatcroft'* judgement, the main criterion on which consideration of revised plans should be exercised is whether the development

is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.

7. In this instance, the proposed revisions are clearly seeking to address the issue of privacy, upon which the Council partly based its decision at the application stage. As such, it is evident that the appellant has sought to evolve the proposed development through the appeal process, thus depriving the Council and interested parties of the opportunity to formally consider the revisions. I have therefore determined this appeal on the basis of the plans listed in the Council's decision notice and have not taken into account the revised plans in the determination of the appeal.

Main Issue

8. The main issue is the effect of the proposed development on the living conditions of the neighbouring occupiers at 56 Brooklands Crescent in relation to privacy, and 60 Brooklands Crescent in relation to massing.

Reasons for the Recommendation

9. The appeal property is a semi-detached dwelling located within a quiet residential area with properties similar in character to the appeal property. Due to the ground level changes, the property appears two storeys in height from the front but increases to three storeys at the rear.

10. The proposed rear balcony would be of ample size to allow a number of people to congregate. Consequently, despite the proposed glass balustrading, whether or not this was to be obscure glazed, the balcony would provide an opportunity for considerable overlooking into the garden of number 56, particularly as the land level is lower at this property. The balcony would therefore unacceptably and adversely affect the living conditions of the occupiers of number 56 with regards to privacy.

11. The proposed balcony screening along the boundary with number 60 would prevent direct overlooking of the neighbouring property in this direction. Hedging along the boundary also aids in protecting the privacy of the occupiers at number 60, albeit that there is a gap between the rear wall of the appeal property and where the hedge commences. I also noted that the balcony would be set at a higher level than the decked area at number 60.

12. In assessing the visual impact of the screening, I do not agree with the appellant that it would have no greater impact than the current hedge, with the visual and physical interjection of the solid screen quite different in character to the natural appearance of a hedgerow. Taken in combination with the difference in height between the proposed balcony and decking at number 60, the length and height of the balcony screen would have an overbearing impact on users of the neighbouring garden.

13. I have noted the appellant's point that the raised deck at number 60 is built higher than the appeal properties garden and has no privacy screen. However, the decking is set lower than the proposed balcony and is set back from the shared boundary with number 58. As a result, I do not find it comparable to the scheme before me.

14. For the reasons outlined above, I find that the development would have a harmful effect on the living conditions of the occupiers of neighbouring

properties with particular reference to privacy and massing. As such, there is conflict with saved policy H14 (c) of the Sheffield Unitary Development Plan (1998) which, amongst other considerations, requires development not to deprive residents of privacy. It also does not accord with guidelines 5 and 6 of the Supplementary Planning Guidance on Designing House Extensions which aims to maintain privacy and avoid over dominance.

Other Matters

15. The appellant has made me aware of other nearby properties that have balconies. However, I do not have the details of those schemes before me, nor do I have any evidence to suggest that these give rise to adverse impacts on living conditions for the occupiers of adjacent properties of the nature identified in this appeal. In any case, I have determined the proposal before me on its individual merits.

Conclusion

16. For the reasons given above, I recommend that the appeal should be dismissed.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Martin Seaton

INSPECTOR