



Appeal Decision

Site visit made on 19 July 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Appeal Ref: APP/U3935/D/22/3298328

154 Whitworth Road, Swindon SN25 3BJ

- 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 Miss D Kader against the decision of Swindon Borough Council.
 - The application Ref S/HOU/21/1367/LZWI, dated 13 August 2021, was refused by notice dated 9 March 2022.
 - The development is 'retrospective balcony to rear'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal is referred to as being retrospective and it is clear from my site inspection that the balcony and privacy screen are already in place.

Main Issues

3. The main issues are the effect of the proposal on:
 - i) the living conditions of the occupants of 152 Whitworth Road with regard to their privacy; and
 - ii) the character and appearance of the surrounding area.

Reasons

Living Conditions

4. The appeal property is a detached bungalow with accommodation in the roof space. The property sits further back in the plot than the neighbouring property 152 Whitworth Road. No 152 contains windows in the rear elevation which are roughly in line with the front of the appeal property. Mature vegetation lines most of the site boundary between the appeal property and No 152.
5. The edge of the balcony is close to the common boundary with No 152. At my site visit I observed that there is a gap between the privacy screen and the roof slope of the appeal property. This gap, which is at eye level, allows for clear and direct views of the windowed rear elevation and amenity space of No 152. These views are not impeded by vegetation. Whilst a degree of overlooking can be expected in urban areas, including from existing windows and rooflights, such a degree of overlooking goes beyond existing and reasonable levels.
6. The appellant asserts that the balcony will not be used by third parties or for social gatherings and those using it will mainly be seated. Such matters would

be beyond the scope of control by condition. The balcony would be accessed from a bedroom, rather than a communal area. While this may limit the frequency and temper the nature of its use, it is still likely to be used by the occupants of the bedroom and thus cause harm. I note that the appellant states that the privacy screen is moveable, however no details are before me of how this would function and whether it would screen views of the neighbouring property. A condition requiring boundary vegetation to be retained, as suggested by the appellant, would not obscure views of the neighbouring property.

7. For the foregoing reasons I find that the balcony harms the living conditions of the occupants of 152 Whitworth Road through loss of privacy. Therefore, the proposal conflicts with those aims of Policy DE1 of the Swindon Borough Local Plan (2015) which seeks, amongst other matters, to ensure that the layout of new development is respectful of amenity. I also find conflict with the Residential Extensions & Alterations Supplementary Planning Document (2011) (SDG) which has similar aims.

Character and Appearance

8. The appeal property is located within a varied street scene of single and 2 storey dwellings. Mature vegetation to property boundaries and within front gardens contributes to the green and spacious character of the area. The rear elevation of the appeal property is not visible from the street. To the rear of the property hedges border the 2 side boundaries and a timber fence borders the rear boundary.
9. Guidance in the SDG sets out that “unless balconies are a clear feature of the character of an area or have become established as an accepted and appropriate addition within the townscape, they are not normally considered acceptable on the side or the principle elevation”. The balcony is located to the rear of the property where public views of the proposal would be restricted by a lack of vantage points and dense vegetation. Furthermore, views of the balcony are limited to those from neighbouring properties which are mostly obscured by vegetation and extensions and outbuildings within the appeal site and neighbouring properties. By virtue of this and the balcony’s modest scale and lightweight design I find that it does not appear dominant or adversely affect the green and spacious character of the surrounding area.
10. I find no conflict with those aims of Policy DE1 of the Swindon Borough Local Plan (2015) which, amongst other matters, seeks to ensure a high standard of design. I also find no conflict with the SDG which has similar aims.

Conclusion

11. I find in favour of the appeal proposal in relation to the issue of character and appearance. However, the appeal proposal does have an adverse impact upon the privacy of occupiers of 152 Whitworth Road. Consequently, it fails to accord with the development plan taken as a whole. Therefore, for the reasons given above, the appeal should be dismissed.

Nichola Robinson

INSPECTOR