



Appeal Decision

Site visit made on 20 September 2022 by Darren Ellis MPlan

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Ref: APP/V4630/D/22/3300713

4 Ellsmore Meadow, Aldridge WS9 0PR

- 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 Steve Hare against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/0882, dated 30 July 2020, was refused by notice dated 14 April 2022.
 - The development proposed is a 1st floor balcony to main bedroom and french doors and air conditioning unit.
-

Decision

1. The appeal is allowed and planning permission is granted for a 1st floor balcony to main bedroom and french doors and air conditioning unit at 4 Ellsmore Meadow, Aldridge WS9 0PR in accordance with the terms of the application ref: 20/0882, dated 30 July 2020 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Site Plan Location Plan & block Plan drawing no. HGD19-79-1.1 Rev A; Existing & Proposed Part Ground Floor Plans & Elevations drawing no. HGD19-79-1.2 Rev A.
 - 2) The balcony hereby permitted shall not be used until obscure-glazed panels have been installed to both sides thereof. Details of the obscure-glazed panels shall be first submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter.

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.

Procedural Matters and Main Issues

3. The description of the proposed development on the application form omitted the air conditioning unit. I have therefore used the description from the appeal form and decision notice which accurately describes the proposal. This does not fundamentally affect the appeal scheme or the case of either main party in relation to it. I have proceeded on this basis.
 4. The proposed development has already been constructed however the balcony has two supporting legs which are not shown on the submitted drawings. As it
-

is not the purpose of the appeal process to amend or evolve a scheme, I have therefore made my recommendation on the basis of the submitted drawings.

5. The appeal site lies within the Green Belt. The reasons for refusal and the Council's report do not identify any specific harm to the Green Belt or conflict with Green Belt policies. No substantive evidence has been provided to lead me to conclude otherwise. The main issues therefore are the effect of the proposed development on a) the character and appearance of the area; and b) the living conditions of the occupiers of the neighbouring properties, with particular regard to visual impact, privacy and noise.

Reasons for the Recommendation

Character and Appearance

6. The appeal site comprises a detached dwelling within a modern housing estate. The properties in the estate have been built with similar design features and materials. Overall, they have an attractive and cohesive feel. Both the balcony and the air conditioning unit are positioned on the rear elevation and as such are not visible from the street, although views of the balcony are possible from the public footpath to the south of the site. The balcony has been constructed from glass and steel and is of a modern, lightweight appearance which complements the existing house. The air conditioning unit is modest in scale and positioned close to the rear two-storey projection which minimises any views of the unit from public viewpoints.
7. Condition 29 of the original planning permission¹ for the estate removed permitted development rights for extensions to the properties, so that the potential impacts of future extensions to the dwellings can be assessed. Nevertheless, balconies are not allowed under permitted development and therefore would be subject to a planning application and a full assessment against planning policy in any case. The fact that the balcony and air conditioning unit have been erected and planning permission sought retrospectively does not in itself amount to harm or justify a refusal of planning permission.
8. With the above in mind, the proposal is not harmful to the character and appearance of the area. It therefore complies with the design criteria of Policies CSP4 and ENV2 of the Black Country Core Strategy (2011) (BCCS), Policy GB1 of the Walsall Site Allocation Document (2019) (WSAD) and Saved Policies GP2, ENV7 and ENV32 of the Walsall Unitary Development Plan (2005) (UDP), which all require development proposals to take account of the context and surroundings and to preserve or enhance local character. The proposal also complies with the guidance in Policy DW3 of the Designing Walsall Supplementary Planning Document (Revised July 2013) (SPD), which states that all new development must be designed to respect and enhance local identity.

Living Conditions

9. The balcony allows views of the adjacent gardens at Nos 3 and 5. Although views of the rear garden at No 3 are currently obscured by a tall hedge, this is not a permanent screen as the hedge could be cut to a lower height or

¹ Planning application ref. 14/1146/RM

- removed entirely at any time. This would result in significant overlooking of the garden of No 3.
10. The existing side-facing bedroom windows at the appeal property and No 5 provide mutual overlooking of the two properties, including of the patio areas closest to the houses and into the corresponding side-facing windows. The balcony provides views of the side-facing windows as well as a large portion of the rear lawn area at No 5. Furthermore, a balcony is likely to be used for longer periods than the time spent looking out of a bedroom window.
 11. The appellant has suggested that a condition could be added to require an obscure-glazed panel to be fitted to the side of the balcony nearest to No 5 to reduce overlooking. Such a panel would prevent views of the side windows and garden area nearest to the house at No 5, and as such would prevent any unacceptable overlooking or loss of privacy to No 5. However, an obscure-glazed panel would also be required for the side of the balcony nearest to No 3, which would prevent views of the garden of No 3 in the event that the existing boundary hedge is reduced in height. The balcony together with obscure-glazed panels to both sides would prevent any significant overlooking and loss of privacy and would therefore not harm the living conditions of the occupiers of Nos 3 and 5.
 12. Owing to the distance of the balcony from the boundaries with Nos 3 and 5, the balcony and privacy screens would not cause any overbearing impact to the occupiers of Nos 3 and 5.
 13. The air conditioning unit was in operation during my visit and emitted a gentle hum which would have a minimal impact on nearby residents. However, it is not clear if this was the maximum noise that the unit could create. Nevertheless, I note that the Council's Environmental Protection department did not raise any objections nor request a noise survey or any mitigation measures. As such, I have no evidence before me to demonstrate that the operation of the air conditioning unit causes any unacceptable adverse impact to nearby residents in terms of noise.
 14. The proposal therefore complies with UDP Policies GP2 and ENV10, which require, amongst other things, that development does not cause an unacceptable adverse impact including by way of overlooking, loss of privacy or noise. The proposal would also accord with Appendix D of the SPD, which sets out guidance to ensure that occupants have satisfactory living conditions. It also complies with section 15 of the National Planning Policy Framework which seeks, amongst other things, for existing development not to be adversely affected by unacceptable levels of noise pollution.
 15. The Council's reason for refusal for the air conditioning unit cites a conflict with UDP Policy ENV32 and BCCS Policy ENV2. However, these policies relate to design, historic character and local distinctiveness and do not specifically refer to the effect of a development on the living conditions of neighbouring properties. Therefore, these have not been determinative in my consideration of this main issue.

Other Matters

16. The air conditioning unit attached to the front of the house is not included in the description of development on the application form nor on the submitted

drawings. As such it does not form part of the development that has been applied for and consequently it falls outside the scope of this appeal.

Conditions

17. As the balcony and air conditioning unit have already been installed, it is unnecessary to impose the standard time limit condition. In order to provide certainty and for enforcement purposes it is necessary to specify the approved plans. I have also attached a condition that requires the balcony to not be used until obscure-glazed panels have been installed on the sides for the reasons given above.

Conclusion

18. For the reasons given above, the appeal scheme would comply with the development plan. I therefore recommend it be allowed, subject to the conditions set out.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report, I agree with the recommendation and shall allow the appeal and grant planning permission subject to the conditions above.

John Morrison

INSPECTOR