



Appeal Decisions

Site visit made on 6 February 2023

by Mr Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2023

Appeal A Ref: APP/A0665/C/22/3304639

2 Summerfield Drive, Moulton, Northwich, Cheshire CW9 8PU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mrs Kelly Mankee against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 29 July 2022.
- The breach of planning control as alleged in the notice is the external alteration to the southern side elevation to provide a Juliet balcony and screen.
- The requirements of the notice are to:
 - (i) Remove the Juliet balcony and French doors, and block up the resulting opening with an external brick finish to match the brickwork used in the existing dwelling; or
 - (ii) Remove the frosted glass screen and the implement the Juliet balcony so that it complies with the approved drawings subject to planning permission 20/03530/FUL.
- The period for compliance with the requirement is: 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, following correction, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/A0665/C/22/3304640

2 Summerfield Drive, Moulton, Northwich, Cheshire CW9 8PU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Brett Mankee against an enforcement notice issued by Cheshire West and Chester Council.
- The notice was issued on 29 July 2022.
- The breach of planning control as alleged in the notice is the external alteration to the southern side elevation to provide a Juliet balcony and screen.
- The requirements of the notice are to:
 - (i) Remove the Juliet balcony and French doors, and block up the resulting opening with an external brick finish to match the brickwork used in the existing dwelling; or
 - (ii) Remove the frosted glass screen and the implement the Juliet balcony so that it complies with the approved drawings subject to planning permission 20/03530/FUL.
- The period for compliance with the requirement is: 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, following correction, and planning permission is granted in the terms set out below in the Formal Decision.

The Enforcement Notice

1. Requirement (ii) under paragraph 5 of the enforcement notice (the Notice) states 'Remove the frosted glass screen and the implement the Juliet balcony ...'. The second 'the' in this sentence is clearly meant to read 'then'. I am satisfied that such a correction can be made without causing injustice to the parties.

Ground (a) and the Deemed Planning Application

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal property is located within a residential area comprising two-storey detached and semi-detached properties of varying styles and sizes. The scale, detailing and proportion of fenestration is similarly varied. The eclectic mix of properties makes a positive contribution to the character and appearance of the area.
4. The appeal property is on the corner of Summerfield Drive and Main Road. The Juliet balcony fronts on to Main Road and comprises French doors with an obscure glazed screen approximately half the height of the doors. The screen projects slightly off the wall.
5. Planning permission has been granted for a Juliet balcony and screen in the same location as the existing¹. The only difference is that the approved balcony was to have an orange-coloured screen that would be flush with the wall, instead of the obscure glazed and slightly projecting screen. The principle of a Juliet balcony in this location is therefore acceptable.
6. The corner plot location results in the appeal property being prominent within the streetscene when approaching in either direction along Main Road. Despite the prominent location of the property, due to its second-floor height and limited projection from the wall, the Juliet balcony does not appear as a prominent feature when approaching in either direction along Main Road. It is even less prominent when traveling eastbound due to the balcony being screened by the chimney breast adjacent to it for much of the approach.
7. Whilst the obscure glazed screen and handrail do not match other materials on the appeal property or properties in the vicinity, as a result of its limited size, I do not find the balcony detracts from the character or appearance of the area. I do not consider it would have any greater effect than the approved orange-coloured screen.
8. I find therefore, the development does not harm the character and appearance of the area. As such, it complies with Policy ENV6 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies 2015 and Policies DM3 and

¹ Council Reference: 20/03530/FUL

DM21 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies, which, amongst other things, seek to ensure new development respects the character and protects the visual amenity of the local area. It would also comply with the guidance set out in the Cheshire West and Chester Supplementary Planning Document: House Extensions and Domestic Outbuildings 2021.

Conditions

9. I have considered the imposition of appropriate planning conditions, having regard to the six tests set out in the National Planning Policy Framework. However, I am satisfied that no conditions are necessary.

Conclusion

10. For the reasons given above, having considered the development plan as a whole and all material considerations, the ground (a) appeals are allowed.
11. The ground (a) appeals and the deemed applications succeed. Given the success on the ground (a) appeals there is no need to go on to consider the ground (f) and (g) appeals.

Formal Decision

12. It is directed that the Notice is corrected by deleting the first 'the' in requirement (ii) under paragraph 5 and substituting 'then'.
13. Subject to the correction, the appeals are allowed, the enforcement notice is quashed and planning permission is granted on the applications deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the external alteration to the southern side elevation to provide a Juliet balcony and screen at 2 Summerfield Drive, Moulton, Northwich, Cheshire CW9 8PU as shown on the plan attached to the notice.

Alexander Walker

INSPECTOR