



Appeal Decision

Site visit made on 13 February 2023

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/X2410/D/22/3309419

40 Herbert Street, Loughborough, Leicestershire LE11 1NX

- 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 Patrick Brown against the decision of Charnwood Borough Council.
 - The application Ref: P/22/1054/2 dated 1 June 2022, was refused by notice dated 17 August 2022.
 - The development proposed is retention of trellis and pergola to ground floor, trellis and 2 pergolas to first floor balconies and trellis and pergola to second floor balconies (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The development was completed prior to the application to the Council.

Main Issue

3. The main issue in this appeal is the effect of the development on the character and appearance of the building and area.

Reasons

4. No.40 Herbert Street is a mid-terrace building located within an area of similar older terraced housing. Balconies exist at the rear of the dwelling which include pergolas and trellis. These are readily visible from the rear of properties at either side of No.40 and from the rear windows and gardens of a substantial number of opposing dwellings at Cambridge Street. Public views of the development from surrounding streets are restricted because of the screening effect of the terraced housing, although evidence has been submitted to show that the development at the second floor of the appeal building can be glimpsed from Charles Street. A retrospective application for retention of the balconies to first and second floor, and portico and pergola to the rear of the appeal building (ref: P/01/0194/2) was granted permission in May 2001. I now turn to the three levels at the rear of the building subject to this appeal.

Ground floor level

5. At ground floor level there is a rear yard surrounded by a wall which the Council advises is around 1.8 m in height. It was apparent at the site visit that

the rear section of pergola had been removed in accordance with the proposed drawing. This has left a remaining area of pergola, extending to around 3 m from the rear wall of the building. I am advised by the appellant that the remaining section of pergola was granted permission under application ref: P/01/0194/2. However, there is no reference to that matter in the officer's delegated report.

6. Wooden trellis has been erected above the boundary wall extending it to around 2.2 m in height. The appellant considers that the visual impact of the trellis is acceptable because the wall and trellis is only 0.2 m higher than would be allowed under permitted development rights. However, the trellis adds unduly to the bulk and mass of the boundary treatment because of its length and extent. Painting the trellis in white to match the pergola, as suggested by the appellant, would be likely to make it more prominent. The appellant has referred to other examples of boundary treatment in the vicinity. However, the circumstances are different and their existence is insufficient reason to justify the development subject to this appeal.

First floor level

7. Two pergolas exist at first floor level. There is a wooden trellis to the south-east side of the balcony. The appellant advises that the pergolas have permission under application ref: P/01/0194/2, although I a neighbour considers that they were not built in accordance with the approved plans. The first floor pergolas and trellis are not mentioned in the reasons for refusal in the Council's decision notice. The trellis provides a degree of screening for a window in the neighbouring property, although I note the representation from the occupant of No.38 Herbert Street regarding overlooking.

Second floor level

8. It is proposed that a timber pergola would be retained over part of the second floor of the building as well as a timber trellis next to No.42 Herbert Street. The appellant has included copies of correspondence with the Council's enforcement officer and contends that the balustrade is immune from enforcement action. The current pergola was constructed following demolition of a previous structure of similar design which had been erected without planning permission. The Council therefore considers that it requires permission.
9. I find that the pergola and trellis are uncharacteristic within the area of older terraced housing and visually prominent because of their scale, colour and position at a high level at the rear of the building, and breaking the skyline.

Other Matters

10. Loss of privacy because of potential overlooking from the balconies is a matter raised by neighbours. However, as mentioned above, the balconies were granted permission under application ref: P/01/0194/2.
11. Alleged non-compliance of any of the structures with the Building Regulations is not a planning matter and not for my determination in this appeal.

Conclusion

12. I conclude that the trellis to the ground floor balcony and pergola and trellis to the second floor balconies have a harmful effect on the character and appearance of the building and surrounding area. The development therefore conflicts with saved policies EV/1 and H/17 of the Borough of Charnwood Local Plan which seek to ensure that development respects and enhances the local environment and does not appear intrusive or incongruous. It also fails to comply with policy CS 2 of the Charnwood Local Plan Core Strategy which requires that development respects and enhances the character of the area. I have taken all other matters raised into account. However, for the reasons given above, I conclude that the appeal should be dismissed.

Martin H Seddon

INSPECTOR

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