



Appeal Decision

Site visit made on 11 July 2023

by Elaine Gray MA, MSc, IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/E0915/C/22/3308633

24 Hendersons Croft, Crosby-On-Eden, CARLISLE, CA6 4QU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bobby Gibson against an enforcement notice issued by Carlisle City Council.
 - The notice was issued on 13 September 2022.
 - The breach of planning control as alleged in the notice is: Erection of first floor balcony to rear elevation.
 - The requirements of the notice are to: Remove the first floor balcony and supporting structure.
 - The period for compliance with the requirement is: Six months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) 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.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of first floor balcony to rear elevation at 24 Hendersons Croft, Crosby-On-Eden, Carlisle, CA6 4QU as shown on the plans attached to the notice and subject to the following condition:
 1. Within 4 months from the date of this permission, 1.8 metre high obscurely glazed screens to Privacy Level 3 or above, shall be installed on the south and west elevations of the balcony hereby approved. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) the glazed screens shall be retained and shall not be altered or removed without the prior written consent of the local planning authority.

Main Issue

2. The main issue is the effect of the development on the living conditions of neighbouring residents, with particular regard to privacy and overlooking.

Reasons

3. The appeal site at 24 Hendersons Croft is a two storey detached dwelling located in an estate of similar housing. The development comprises a first floor balcony that has been constructed on the west elevation of the building. The structure comprises opaque glazed panels within metal framing, and is supported by two steel columns rising from the ground below.

4. Policy SP 6 of the Carlisle District Local Plan 2015-2030 (LP) sets out design principles against which developments will be assessed. Amongst other things, it seeks to ensure that development shall not adversely affect the residential amenity of existing areas or adjacent land uses. Similarly, LP Policy HO 8 requires schemes for house extensions to ensure that there is no loss of amenity to surrounding properties through overlooking.
5. To the west of No 24 is Burnside, a detached bungalow sitting in its own plot. The new balcony faces towards this property at a distance of around 4.1m from the boundary between the two plots. On my visit, I saw that the driveway to Burnside, leading to the garage situated to the back of the plot, runs close to the boundary with No 24. As a result, the area directly overlooked by the balcony comprises tarmacked hardstanding at the side of the house, and the back door of the dwelling. There is little evidence to show that overlooking of these areas from the balcony materially harms the privacy of the neighbours at No 26.
6. The southern end of the balcony sits roughly in line with the north elevation of Burnside. That being the case, the balcony does not afford views into the habitable rooms at the front of the house. However, the whole of the front garden of No 26 is visible from persons using the balcony.
7. The elevations show that a window was altered to a doorway to allow access to the balcony. This window previously served a study. In addition, the garden at Burnside is overlooked by other habitable rooms. That being the case, a degree of overlooking already existed between No 24 and Burnside. However, the presence of people on the balcony inevitably heightens the sense of overlooking, and materially reduces the privacy of neighbouring residents.
8. The appellant points to the presence of trees which currently give some degree of screening of the balcony. However, this factor could not be relied upon to mitigate harmful effects as the trees could be cut down and removed at any time.
9. Nonetheless, the effects of overlooking and loss of privacy could be addressed by the provision of obscure glazing to a height of 1.8m on two sides of the balcony. I note that the appellant finds this solution to be acceptable. From the evidence before me and my observations on site, I have no basis on which to take a different view.
10. Concerns have also been voiced by the residents at 26 Hendersons Croft, which sits immediately to the south of the appeal site. The conservatory and patio area at No 26 are intervisible with the balcony, affording harmful overlooking of these private leisure spaces. The Council's suggestion that a taller glazed screen at the southern end of the balcony would also be sufficient to mitigate this overlooking towards No 26.
11. In conclusion, I have found the balcony, as built, unacceptably harms the living conditions of neighbouring residents. However, I am satisfied that the provision of extra screening will be sufficient to mitigate this harm, and so no conflict arises with LP Policies SP 6 or HO 8, or with the development plan as a whole. The development also complies with the National Planning Policy Framework, which requires a high standard of amenity for existing and future users.

Other Matters

12. I have taken into account the concerns of neighbouring residents in relation to the effect of the development on property values. However, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property. Therefore, this matter has not led me to a different conclusion on the main issue above.

Conditions

13. I have had regard to the conditions suggested by the Council. In order to safeguard the living conditions of neighbours with regard to privacy and overlooking, I have imposed a condition requiring the installation of obscure screening to the balcony.
14. The appellant states that the lead-in time for the manufacture of these screens is about 15 weeks. As a result, I have allowed four months from the date of this permission for this work to be carried out. The Council had originally allowed six months for the carrying out of the requirements of the enforcement notice, which was to remove the balcony. I am therefore satisfied that no injustice will arise to any party by allowing another month for this element of the development.
15. I have not imposed the Council's first condition because it refers to documents from a planning application that was refused. However, the enforcement notice has elevational drawings attached, and this is sufficient to provide certainty of the form of the development, subject to the required alterations to the balcony.

Conclusion

16. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for erection of first floor balcony to rear elevation as described in the notice.

Elaine Gray

INSPECTOR