The Planning Inspectorate

Appeal Decision

Site visit made on 5 September 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2023

Appeal Ref: APP/N1920/D/23/3323601
15 Newlands Avenue, Radlett, Hertfordshire WD7 8EH

- 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 Derek Jacobson against the decision of Hertsmere Borough Council.
- The application Ref 23/0159/HSE, dated 30 January 2023, was refused by notice dated 24 March 2023.
- The development proposed is the construction of a balcony/terrace area off principal bedroom-on top of existing single storey roof.

Decision

1. The appeal is allowed, and planning permission is granted for the construction of a balcony/terrace area off principal bedroom-on top of existing single storey roof at 15 Newlands Avenue, Radlett, Hertfordshire WD7 8EH in accordance with the terms of the application Ref 23/0159/HSE, dated 30 January 2023, subject to the conditions set out in the schedule to this decision.

Procedural matters

2. While the appellant has described the proposal as in the above heading, the Council has additionally referred to the introduction of a perimeter glass balustrade and the conversion of a rear window to a doorway. From my inspection of the plans, the Council's description more fully reflects the development sought. I have assessed the appeal scheme on that basis.

3. The appellant has provided 2 plans at the appeal stage. These plans collectively show an area 3-metres from the rear of 17 Newlands Avenue; a line drawn at 45-degrees from a corner of the appeal dwelling; and the outline of a typical person stood on the new roof terrace. As no change is sought to the proposal itself, I am satisfied that no injustice would be caused if I were to consider these drawings as well as those provided at the application stage.

Main issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 17 Newlands Avenue with regard to privacy.

Reasons

5. The proposal is to alter the existing flat roof of the single storey projection at the back of the appeal dwelling to enable its use as an outdoor terrace. An obscurely glazed 1.8 metre, high screen would be placed along the edge of the

new terrace facing 17 Newlands Avenue that would prevent overlooking towards the back garden that is closest to this neighbouring house. It is this outdoor space where the occupiers of No 17 are entitled to expect a reasonable level of privacy because it is likely to be most used.

6. From what I saw, there are oblique views from the existing first-floor rear window of the appeal dwelling nearest to the shared boundary with No 17, which is to be enlarged to enable access to the new terrace. By introducing a tall screen, as proposed, the privacy of the neighbouring occupiers would be slightly improved because views towards the back of their house from this opening would no longer be possible.

7. The outward projection of the new terrace coupled with a 1.1 metre high obscurely glazed screen around its remaining sides, as proposed, would allow a greater level of overlooking towards the rest of the back garden of No 17 than would be possible from the upper rear windows of No 15. However, such views would be largely screened by the extensive foliage of existing planting that marks the boundary between the site and No 17. Even if this well-established landscaping were to be significantly cut back or removed, views towards the rear of No 17 from the new terrace would be from some distance and at an oblique angle. In my experience, overlooking of this type is a common characteristic of the relationship between houses that stand side by side within residential areas such as this. While someone could potentially lean out over the lower-level element of the new screen and look back towards the rear of No 17, I doubt this would be a common or likely occurrence.

8. On the main issue, I conclude that the additional overlooking possible would have no significant impact on the living conditions of the occupiers of No 17. Consequently, there is no conflict with Policies SP1 and CS22 of the Hertsmere Local Plan: Core Strategy, Policy SADM30 of the Site Allocations Development Management Policies Plan, the Council's Planning and Design Guide, or Policy HD3 and the Radlett Design Code within The Radlett Plan 2020-2036 insofar as they aim to safeguard residential amenity. It also complies with the National Planning Policy Framework, which states that developments should create places with a high standard of amenity for existing and future users.

9. In reaching this conclusion, I have regard to the examples of existing roof terraces of other properties in the local area to which the appellant has referred. Few background details of these terraces have been provided and so I am unable to conclude that their circumstances or the decision making that led to them are directly comparable with those of the proposal. In any event, each development should be assessed on its own merits, as I have done.

10. The Council has additionally referred to the lack of a clear need for the terrace given, in its view, the ample rear amenity space available within the site. However, there is nothing in the submitted evidence to indicate that a need for this type of development should be demonstrated for it to be acceptable.

Conditions

11. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plans for certainty. To ensure the satisfactory appearance of the development, a condition is imposed to require that the external materials match those of the existing building, as proposed.

12. A condition requiring that the privacy screen is in place before the terrace is first used and is permanently retained thereafter is necessary to safeguard the living conditions of the occupiers of No 17. This condition is additional to those suggested by the Council.

Conclusion

13. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be allowed.

Gary Deane

INSPECTOR

Schedule of conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Refs 2201/PL.01, 2201/PL.02, 2201/PL.03, 2201/PL.04, 2201/PL.05, 2201/PL.06, 2201/PL.07, 2201/PL.08 and 2201/PL.09.

3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

4) Before the roof terrace hereby approved is first brought into use, a screen shall be erected as indicated on drawing number 2201/PL.09 and shall be fixed and obscurely glazed. The screen shall be permanently retained as such thereafter.