



Appeal Decision

Site visit made on 22 August 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 October 2023

Appeal Ref: APP/D2320/D/23/3322723

83 Claytongate, Coppull, Lancashire PR7 4PR

- 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 Clive Nightingale against the decision of Chorley Borough Council.
 - The application Ref 23/00031/FULHH, dated 5 January 2023, was refused by notice dated 9 March 2023.
 - The development proposed is described as "proposed privacy screening and retrospective approval existing balcony to rear".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme seeks partly retrospective permission for the development, which has commenced, and I was able to view the works which have already been undertaken in situ at my site visit. The appeal is also supported by 'Proposed Plans' which include additional privacy screening. I have therefore considered the appeal on this basis.

Main Issue

3. The main issue of the appeal is the effect of the development on the living conditions of neighbouring occupiers, with particular regard to privacy, outlook and noise and disturbance.

Reasons

4. The appeal site relates to a detached dormer bungalow of a modern design, which is situated in a generous plot located on the corner of Claytongate and Roe Hey Drive. The rear boundary of the appeal site borders the side boundary of No.27 Roe Hey Drive, which is a modest, single-storey bungalow and has a door and windows within its side elevation. To the side is No.85 Claytongate, which is a modest semi-detached bungalow, and the appeal site also borders a corner section of the garden of No.17 Roe Hey Drive to the rear.
5. The appeal is seeking approval for the erection of a privacy screen to enable the use of the flat roof above the rear projection as a balcony. As outlined above, some of the works have already been carried out which includes the installation of an approximately 1-metre-high obscured glass balustrade.
6. Whilst some mutual overlooking of gardens already exists from the first-floor bedroom windows on the rear elevation of the appeal site, these windows are located further away from shared boundaries than the balcony. The use of the

balcony which is located much closer to the neighbouring properties would be likely to increase opportunities for direct overlooking of the side elevation windows of No. 27 Roe Hey Drive and into the rear gardens of Nos. 17 and 27 Roe Hey Drive and No. 85 Claytongate. This would result in a loss of privacy to these properties and be detrimental to the living conditions of the occupiers of these properties.

7. From the balcony, which currently has an approximately 1-metre-high obscured glazed balustrade, it is possible to look into the gardens of neighbouring properties. The proposed plans indicate that the height of this balustrade would be increased to 1.8 metres around the north west corner of the balcony, which would extend along the full length of the balcony along its boundary adjacent to No.85 Claytongate and approximately 5 metres along the rear section of the balcony, where the appeal site borders Nos. 27 and 17 Roe Hey Drive. This would provide an improved level of privacy, particularly to No.17 Roe Hey Drive and No.85 Claytongate and not result in an unacceptable level of harm to the living conditions of the occupiers of these properties.
8. However, whilst the proposed plans incorporate additional measures to address concerns relating to privacy to some of the neighbouring properties, particularly to No.17 Roe Hey Drive and No.85 Claytongate, this would not sufficiently overcome concerns about loss of privacy to all neighbouring properties. In relation to No. 27 where this balustrade will be retained at approximately 1 metre in height and where the balcony is approximately 4.4 metres from the shared boundary, the balcony would allow for views directly across the neighbouring garden and into the side elevation of the property. Furthermore, the property has a kitchen window on the side elevation, which the balcony allows unfettered views into due to the close proximity.
9. I accept that the use of the balcony would be likely to be limited to certain times of the year and that the privacy screening, both existing and proposed would provide additional privacy from the rear facing windows, these factors are not sufficient to outweigh the harm which I have identified.
10. Whilst I have had regard to the letter of support from the current occupier of No.27, I also have to consider the effect of the balcony on the living conditions of any future occupiers. I therefore find that the balcony would lead to an unacceptable loss of privacy to both the house and garden at No. 27.
11. The balcony is located approximately 0.5 metres from the common boundary with No.85, which has a flat roof garage set back from the rear elevation of the bungalow. It is situated close to the shared boundary, but only slightly visible from the appeal site above the boundary fence. By contrast, the balcony with the proposed 1.8-metre-high privacy screen would sit significantly above the height of the garage and boundary fence and be highly visible from this property. Whilst the increased height of the balustrade would serve to minimise the loss of privacy to No.85, it would by virtue of its overall bulk, height and proximity to the shared boundary be a visually prominent feature that would have an overbearing impact on the outlook of the neighbouring property.
12. Whilst the balcony would be set in slightly from each of the shared boundaries it likely that its use, due to its size, elevated position and proximity to neighbouring properties, would have the potential to be a source of noise and disturbance which would be detrimental to the living conditions of the neighbouring residents. I acknowledge that the activities that may take place

on the balcony would be likely to be similar in nature to the use of a garden. However, by virtue of its raised position this means that the level of disruption which could occur would be likely to be greater than would be experienced from a typical garden, situated at ground floor.

13. Consequently, for the reasons given, the balcony causes unacceptable harm to the living conditions of neighbouring occupiers, with particular regard to outlook, privacy and noise and disturbance. As such, the proposal fails to accord with Policy HS5 and BNE1 of the Chorley Local Plan 2015. These policies require, amongst other things, that there should be no unacceptable adverse effect on the amenity of neighbouring properties through overlooking, loss of privacy or overbearing impacts.
14. The development would also be contrary to guidance contained within the Householder Design Guidance Supplementary Planning Document 2017 which states that balconies or terraces, which lead to an unacceptable level of overlooking or are visually intrusive, are unacceptable.

Other Matters

15. I have found no reason to disagree with the Council's assessment in relation to the effect of the proposal on the character and appearance of the area. However, the absence of this harm is not sufficient to outweigh the harm to the living conditions of neighbouring occupiers.
16. I have had regard to the personal circumstances of the appellant, with regards to their health conditions and potential benefits arising from the provision of access to outdoor spaces and fresh air at first floor level. However, whilst I am sympathetic to this, the appeal site already benefits from a large garden and only limited evidence has been offered in support of this need. Therefore, I can only afford this limited weight in my assessment. I am also mindful that personal circumstances rarely outweigh planning concerns. As such, taking all relevant matters into account, I can only give limited weight to the personal circumstances of the appellant.

Conclusion

17. For the above reasons, the development would not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR