



Appeal Decision

Site visit made on 7 December 2023

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15.12.2023

Appeal Ref: APP/V3120/D/23/3329641

18 Cherry Tree Close, Southmoor, Abingdon, Oxfordshire, OX13 5BE

- 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 Clive Vincent Thompson against the decision of Vale of White Horse District Council.
 - The application Ref P23/V0431/HH dated 16 February 2023, was refused by notice dated 26 June 2023.
 - The development proposed is reinstate the balcony that was removed approximately 10 years ago to make roof repairs with an additional cladded screen.
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Decision

1. The appeal is allowed, and planning permission is granted to reinstate the balcony that was removed approximately 10 years ago to make roof repairs with an additional cladded screen at 18 Cherry Tree Close, Southmoor, Abingdon, Oxfordshire, OX13 5BE in accordance with the terms of the application ref: P23/V0431/HH dated 16 February 2023 subject to the following conditions:
 - 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan (unique plan reference p2c/uk/909639/1227600), proposed site plan ref: CT/1368 and proposed floor plan, roof plan and elevations ref: CT/1339.

Procedural Matters

2. Since the determination of the application, and the submission of this appeal, a revised National Planning Policy Framework 2023 (the Framework) was adopted on 5 September 2023. The refusal reason generically references the Framework however, it is not considered that this impacts upon the determination of this appeal given the main changes to the Framework.
3. I note, from the submissions before me, that it is contended that there was a balcony previously in situ. There is no evidence before me as to the existing balcony and, given the passage in time since any balcony may have been in place, I find that it falls to consider the proposal on its own merits, against the relevant planning policies, as a new proposal. I have, however, left the description of the proposal as it is stated on the application form but would clarify that this does not mean any acceptance of there having previously been a balcony at the appeal site.

Main Issue

4. The main issue is the impact of the proposal upon neighbouring residential amenity with specific regard to overlooking and unacceptable loss of privacy.

Reasons

5. The appeal site is a semi-detached dwelling (attached to 17 Cherry Tree Close (no.17) located at the end of a cul-de-sac within a residential area adjoining fields. The proposal seeks to construct a balcony over an existing flat roof rear extension. The Council's report acknowledges that there is a rear roof terrace at the neighbouring property, 19 Cherry Tree Close, also with a timber balustrade so the proposal is not considered to be uncharacteristic for the area. Based upon the evidence before me, and my site visit, I have no reason to conclude differently on this point. This decision letter will, therefore, focus upon the main issue as outlined above. The Council's assessment, within their delegated report, is clear that the refusal reason is largely based upon impact to no. 17.
6. The appeal site, as a semi-detached property, is closely associated with no. 17. At the time of my site visit I found that the existing windows, the first-floor bedroom windows, already allow angled (but clear) views into the adjoining garden – mainly the patio area at the end of that garden. The existing views are unobstructed, especially given that there is already a full-length window (patio door) serving as one of the two windows to bedroom one (as labelled on the proposed floor plan – CT/1339).
7. A 1.8 metre, timber, privacy screen is proposed which would prevent overlooking into the adjacent upper window floor at no. 17 (with this being a concern noted to have been raised within objections). The remainder of the balcony would be enclosed with post, rail and balustrades. I acknowledge that the proposed screen would not prevent overlooking into the adjoining patio area and that a balcony would have differed, potentially more prolonged, use than a typical rear window but views from the balcony I find would be comparable to the existing windows in the rear elevation. From my site visit, and the images submitted by neighbouring occupants (particularly on page 2, right hand image of three), there are still areas of the garden that would not be naturally overlooked as a result of the proposal. This is partly assisted by the single storey, rear, extension to no. 17 which is deeper than the extension at the appeal site itself. General views down the garden, and to the ends of neighbouring gardens are natural and largely expected to some extent within a built-up residential area of this nature.
8. I also note from the floorplans, that the balcony could only be accessed off a bedroom. The balcony is not connected to, for example, the kitchen or dining area downstairs. Balconies connected to such social areas would be more commonly and more likely to be utilised by visitors to the site. The access route in this case, combined with the overall size, means I find the ultimate use of the balcony would be limited and cannot be said to present potential for intensive use or overlooking/loss of privacy to the detriment of neighbouring properties. There would be overlooking, however, compared to that which I saw already exists at the time of my site visit I do not find that that overlooking could be said to be harmful or result in a significant loss of privacy to an extent that would warrant refusal on this occasion.

9. The Council's delegated report is also noted to outline potential noise generation and disturbance due to the prolonged use of the balcony area. In a similar manner, taking into account the points outlined above regarding access being through a bedroom, and the overall size of the property as a family home, I find it is unlikely that there would be such intensive use, and noise creation, which would result in disturbance which would warrant refusal.
10. I note, from emails contained within the appellant's submissions, that the initially Council raised concern with the privacy screen resembling fence panelling. Despite this, this was not outlined within the Council's delegated report, nor carried through to a reason for refusal. The Council's delegated report simply states that the proposal is not out-of-keeping having highlighted the timber balustrade/privacy screen. I find no issue with the proposed screening in that regard.
11. Based upon the evidence before me, and my site visit, I do not find that the proposal would result in an intrusive, unneighbourly development which would be detrimental to the amenity of neighbouring occupiers. The proposal would be consistent with Vale of White Horse District Council Local Plan 2031 Part 2 2019 Policy DP23 which requires development proposals to demonstrate that they would not result in significant adverse impacts on the amenity of neighbouring uses in relation to loss of privacy or visual intrusion. The proposal would also be consistent with paragraph 130 of the Framework seeks to ensure that developments have a high standard of amenity for existing and future users.

Other Matters

12. I note that there are third party comments/objections that were submitted as part of the application process. I have taken into account these comments in relation to visibility and access through a bedroom, as noted in the illustrative submissions, within the main body of this decision letter. The proposal does not result in two storey-built form in the traditional sense – the Council do not consider there to be any conflict in relation to light which is the overarching objective of the 45-degree code. I have no evidence before me to conclude differently. The Council raise no issue in relation to traffic and parking – I have no reason to conclude differently and concerns surrounding existing noise issues should be directed to the relevant Council departments who deal with such complaints – this is not within the scope of this appeal.
13. An image has been submitted, from 12 Hayes Avenue, with comments relating to noise and overlooking. I have commented on noise in the main body of this decision letter. The separation between both the garden, and windows (in excess of 21 metres), at 12 Hayes Avenue means that I find that the proposal would not result in overlooking which would warrant refusal and, in any case, a privacy screen would be installed on the side of the balcony facing towards this property. A comment has been received from 10 Hayes Avenue, however, given the overall length of the garden, the separation and the well-established trees along the boundary, I do not find that the balcony would notably impact upon the privacy of this garden area. In a similar manner I do not find any privacy issues relating to 16 Cherry Tree Close which is separated, by another property, from the appeal site.
14. A holding objection from Thames Valley Police has been submitted, by the Council, with the application responses however this does not relate to the

appeal proposal before me and refers to Land off Cuxham Road. I have, therefore, disregarded this document in the context of this appeal.

Conditions

15. The Council have suggested only two conditions, within their questionnaire which I have considered and applied. A time condition is attached to comply with Section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required to control and define the development which is granted consent.

Conclusion

16. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR