



Appeal Decision

Site visit made on 30 November 2023

by A.Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 19.12.2023

Appeal Ref: APP/A0665/D/23/3330153

Church View, Redhill Road, Kelsall, Chester CW6 0QP

- 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 Timothy Needham against the decision of Cheshire West and Chester Council.
 - The application Ref: 23/01589/FUL dated 17 May 2023 was refused by notice dated 5 July 2023.
 - The application is for first floor balcony to rear elevation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the determination of this application a revised National Planning Policy Framework (The Framework) was published in early September 2023 whose main focus was not directly relevant to this appeal. Nevertheless, I have determined this appeal in accordance with the revised provisions within the Framework.

Main Issues

3. The main issue is the effect of the proposal upon the living conditions of neighbours.

Reasons

4. The appeal property is a type of split level house located to the foot of Redhill Road. The property is sited upon the escarpment of the hillside here so that to Redhill Road the building appears as a single storey bungalow, but to the rear the property is two storey's as the hillside falls away. As a result the principal living room is to the first floor and has a extant large window that overlooks a long distance vista towards the Welsh Hills.
5. The property has planning consent¹ for a replacement of this particular window and for the provision of a Juliet type balcony here. This application was amended from a full balcony to a Juliet balcony seemingly following a request from the assessing planning officer. However, the Appellant's preferred

¹ 22/01591/FUL

solution is for a full balcony and as such the most recent application was submitted accordingly.

6. In assessing this appeal, I am aware of the Council's policies that seek to protect the living conditions of neighbours from overlooking through good design as well as the requirement within Policy DM21 that seeks to ensure development does not have a significantly adverse impact on the amenities of neighbours. These requirements are reflected in the Council's Supplementary Planning Document (SPD) on house extensions and domestic outbuildings.
7. I saw on my site visit that, with regards overlooking, the existing living room window already provides extensive views over the valley below and the first floor room windows of properties at Chapel Bank Mews can be seen. These windows appeared to consist of a bedroom and bathroom to each of these properties and are by account situated around 29 metres from the appeal property itself. Despite this, even in winter it was not possible to see into the ground floor rooms or into any private rear garden area of these houses and I have evidence before me that in the summer months any view into rear windows is more obscured.
8. Furthermore I saw on my site visit that the rear area of these properties is already very open as it is used as car parking. As a result, both the ground floor windows and the first floor can be seen, albeit from a more oblique angle from the adjacent footpath. As such, this rear elevation is not fully private at the present time.
9. In assessing this scheme therefore, the main issue appears to be the differences between that of a Juliet type balcony and that of a full balcony that would extend just over one metre farther out and over a wider area externally. I accept that the ability to physically walk out onto such a structure could result in people spending more time outside here. I also accept that it would be more possible to gaze over neighbours to the sides of the property.
10. However, due to the distances involved, I am unconvinced that there would be a significantly adverse impact of overlooking through people using this balcony. This is for the simple reason that these views already largely exist. Moreover, the distance of 29 metres would be well in excess of those distances usually prescribed to protect neighbouring houses from adverse overlooking. Even if allowing more distance due to the change in levels, I do not consider that the situation would be noticeably worse.
11. In terms of the use and perception of the balcony however, I consider that this impact may be more significant. Despite the distances, a full balcony would have the effect of putting on view those who occupy it. From such a low level as that of Chapel Bank Mews, this would result in a more obvious perception of being overlooked, whether it was occurring or not. When added to this the potential for use of the balcony as a space where noise through music, loudness or even late night conversation could occur, I consider that a proposed balcony here could cause more significant impact upon the living conditions of residents nearby.
12. It is extremely difficult to mitigate or condition such use and near impossible to prescribe and enforce the hours of operation of such a structure attached to a residential building. As such, I am obliged to take the same point of view of those previous planning officers in the council in finding harm to the living

conditions of neighbours through the use and perception of a proposed balcony here that would have more of an impact than just simply overlooking.

13. Ultimately, I consider that, on balance, there would be a significant enough adverse impact to bring this proposal into conflict with Policies SOC5, DM2 and DM21 of the Cheshire West and Chester Local Plan as well as guidance contained within the Council's SPD on House Extensions and Domestic Outbuildings and that the situation of full balcony would be worse than that of the approved Juliet type balcony.

Other Matters

14. The appellants have drawn my attention to other such balcony schemes nearby. Although I saw the location of some of these examples, and although they would appear to represent a similar design response and would be within a similarly tight knit hillside location, I have no direct evidence before me as to the precise context within which they were considered or the reasons behind these interventions being granted planning permission. As such, even though I give these local examples some weight, I do not consider that these precedents in themselves are sufficient enough to outweigh the harm that I have identified above.

Conclusion

15. For the reasons given above, and taking into account of all other matters raised, I dismiss the appeal.

A Graham

INSPECTOR