



Appeal Decision

Site visit made on 7 February 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2024

Appeal Ref: APP/M4510/W/23/3332995

205 Rothbury Terrace, Newcastle upon Tyne, Tyne & Wear, NE6 5DD

- 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 Ms Xanthe Polaine against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2023/0330/01/HOU, dated 15 June 2023, was refused by notice dated 12 October 2023.
 - The development proposed is described as a 6 sq. m steel balcony extension from first floor rear door of 205, over part of (205's) rear yard, located next to service lane between Rothbury Terrace and Simonside Terrace.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. Based on the evidence before me and at my site visit, the development has commenced and is now substantially complete. I have therefore considered the appeal on this basis.

Main Issues

4. The main issues are the effect of the development:
 - on the character and appearance of the area; and
 - the living conditions of neighbouring occupiers, with particular regard to privacy and noise and disturbance.

Reasons

Character and Appearance

5. The appeal site comprises a mid-terraced, upper 'Tyneside Flat' on Rothbury Terrace. The terrace has a traditional, Victorian form with small front gardens and enclosed rear yards. The rear elevation of the appeal site is separated from the rear elevations of Simonside Terrace by a shared access lane. The appeal

site is also visible from Addycombe Terrace runs between Rothbury Terrace and Simonside Terrace.

6. The rear elevations of the terraced properties mostly have two-storey outriggers, finished in brickwork running perpendicular to the main terrace. Most of the properties in the terrace have first floor doors, with an external staircase which leads to an enclosed rear yard. There is a uniformity to the rear elevations, which is functional and repeated within the surrounding streets.
7. The appeal is seeking planning permission for the formation of a balcony on the rear of the property, which is supported by black painted, steel posts and enclosed by a dark, plastic screen. These colours contrast starkly with the brickwork of the host property. Although located to the rear of the property, the appearance of the balcony is somewhat at odds with the character and appearance of the host property.
8. The balcony, by virtue of its elevated position and solid form is a prominent and discordant addition, which harms the character of the terrace. Whilst I accept the location of the balcony to the rear of the property limits public views, it is nevertheless highly visible from Addycombe Terrace, the shared access lane and the rear elevations of Simonside Terrace.
9. Whilst my attention has been drawn to some examples of balconies and roof terraces within the local area, I have not been presented with any evidence of planning permissions being granted for these developments. In any event, I am required to consider this appeal on its own individual merits and the existence of a small number of balconies or roof terraces within the area, whether lawful or not, does not alter my above findings.
10. Consequently, the development causes unacceptable harm to the character and appearance of the area. It is therefore contrary to Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-30 (CS) and Policies DM20 and DM23 of the Development and Allocations Plan (DAP). These policies require, amongst other things, high quality sustainable design that protects and improves the character and quality of an area and uses materials, colours, tones, and textures appropriate to the characteristics of the area.

Living Conditions of Neighbouring Occupiers

11. According to the evidence provided by the Council, the separation distance between existing windows is approximately 23 metres and as such, affords neighbouring occupiers a good level of privacy. The balcony extends up to the rear boundary of the appeal site at first floor level and creates a raised platform from which views towards windows of neighbouring properties are available. These views are also possible from a closer proximity to neighbouring property windows, which increases the opportunities for overlooking into these windows and reduces the level of privacy afforded to the occupants of these properties.
12. Although the presence of first-floor, rear doors and staircases in the terraces means that some overlooking can already occur, the formation of a balcony creates a permanent space on which occupants of the property can congregate. Therefore, whilst I accept the nature of the terraced properties which adjoin the appeal site is such that there is already a degree of intervisibility between

the windows in the rear elevations, the balcony, by virtue of its proximity and height causes an unacceptable loss of privacy for the occupiers of neighbouring properties.

13. Furthermore, the balcony, by virtue of 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.
14. Whilst I recognise that the appellant has erected an enclosure to the balcony, which means that when users are seated the views towards neighbouring properties are limited. It would not prevent views into neighbouring windows when standing, nor has it been demonstrated that it would mitigate potential noise and disturbance. Consequently, this does not overcome the harm I have identified above.
15. For the above reasons, the development is harmful to the living conditions of neighbouring occupiers, with particular regard to privacy and noise and disturbance. It therefore fails to comply with Policy DM23 of the DAP, which requires amongst other things, development to maintain a good standard of privacy for all existing and future occupants of buildings and to ensure that ensure that noise and disturbances from surrounding land uses and/or associated operations will not have an unacceptable adverse impact on residential amenity.
16. It would also be contrary to Paragraph 135 of the Framework, which expects development to provide a high standard of amenity for existing and future users.

Other Matters

17. I have had regard to the desire of the appellant to provide an outdoor amenity space with a small seating area, to improve the quality of the accommodation and enjoyment of the property. I have also had regard to the desire to potential benefits to the occupiers of the property, in relation to their mental health and wellbeing. However, I attribute these benefits moderate weight, and in this particular case and based on the evidence before me, they are not sufficient to outweigh the harm I have identified.

Conclusion

18. For the reasons given, the development does 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