



Appeal Decision

Site visit made on 21 February 2024

by N Bromley BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2024

Appeal Ref: APP/N4205/D/23/3333157

438 Darwen Road, Bromley Cross, Bolton BL7 9HZ

- 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. Navin Patel against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 14591/22, dated 12 September 2022, was refused by notice dated 27 October 2023.
 - The development is proposed balcony.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated 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 submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. I observed at the time of the site visit that the balcony was completed. Therefore, the development is retrospective, and I have dealt with the appeal on that basis. However, the constructed development does not fully reflect the plans that I have before me. In particular, the plans show a two metre high privacy screen on the side elevation. The plans also show a set of double doors at first floor on the rear elevation, which would provide direct access from the bedroom. Therefore, I have determined the appeal on the basis of the submitted plans and details.

Main Issues

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

Reasons

5. The appeal property is a mid-terrace two storey dwelling, adjoining a shop on one side and a house on the other side. The row of terrace properties includes

a number of commercial premises, which have shop fronts at ground floor and residential accommodation at first floor.

Living conditions

6. The balcony is located in close proximity to a number of neighbouring residential properties due to its location within a built-up area.
7. Policy CG4 of the Bolton's Core Strategy Development Plan Document (CS) sets out, amongst other things, that new development should be compatible with surrounding land uses and occupiers, protecting amenity and should not generate unacceptable nuisance or noise. The Framework also advises that planning decisions should create places with a high standard of amenity.
8. The balcony is large enough for a number of people to sit and congregate for lengthy periods of time, particularly during the summer months when the weather is warmer, and the days are longer.
9. I acknowledge that the activities that may take place on the balcony could be similar in nature to the use of a garden. However, the elevated position of the balcony, its size, as well as its proximity to neighbouring properties, would mean that the level of disruption which could occur would likely be much greater than would be experienced from a typical garden or yard area, situated at ground floor. Therefore, the balcony has the potential to be a source of unacceptable noise and disturbance which would be detrimental to the living conditions of neighbouring residents.
10. The appellant suggests that noise would be limited by the position of the balcony between two double storey outriggers. While that may be the case, the balcony projects beyond one of the outriggers, and so has had little influence on my assessment. Additionally, I have not been provided with any substantive evidence that would verify that noise and disturbance would be adequately mitigated by the outriggers or any other means of mitigation.
11. For the above reasons and on the evidence before me, the development would result in unacceptable harm to the living conditions of the occupiers of nearby properties, with regard to noise and disturbance. As such, the development fails to accord with Policy CG4 of the CS and the objectives of the Framework.

Character and appearance

12. The row of terrace properties fronts onto Darwen Road, with the rear of the buildings containing enclosed yard areas, which is characteristic of a terrace area with a tight urban grain. A number of the properties also have single storey garages at the rear, with steel roller shutter doors, which contribute to the functional and urban context of the area.
13. The balcony is located above an existing single storey flat roof extension at the rear of the property, between double storey outriggers. The flat roof is enclosed by a glass balustrade around its edge. A two metre high privacy screen is proposed on the side elevation, adjoining the boundary with the shop.
14. Despite the glass balustrade occupying an elevated position, it is not visually prominent due to the built-up context of the area and its location on the rear elevation, between the two storey outriggers. In addition, while the glass balustrade has a contemporary appearance, and there are no other similar

examples in the locality, it is of a modest size, and it largely has a translucent appearance. Therefore, it is not visually harmful or incongruous in the context of the tight grain of development at the rear of the row of properties. For similar reasons, the proposed privacy screen, despite its height and elevated position would also not be visually harmful.

15. Consequently, for the reasons outlined above, the development would not be unacceptably harmful to the character and appearance of the area. Therefore, the development would not conflict with the design aims of policies CG3 and OA4 of the CS and the House Extensions - Supplementary Planning Document 2012, which together, amongst other things, require development to be compatible with the surrounding area.
16. In addition, the proposal would not conflict with the design objectives of the Framework, which seeks to achieve well-designed places.

Other Matters

17. The appellant considers that the balcony provides valuable additional amenity space to the appeal property, in an area generally characterised by small rear yards. However, the benefit of additional amenity space for the occupiers of the dwelling would not outweigh the harm caused by the effect of the development on the living conditions of neighbouring occupiers.

Conclusion

18. Notwithstanding my conclusions on character and appearance, I have found that the proposed development would conflict with policies contained within the development plan. Whilst it may not conflict with other policies, I consider that it does not accord with the development plan as a whole. I have found no other material circumstances that would outweigh that conflict. As such, I conclude that the appeal is dismissed.

N Bromley

INSPECTOR