



Appeal Decision

Site visit made on 20 February 2024

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2024

Appeal Ref: APP/D0121/D/23/3334963

6 Drakes Way, Portishead, BS20 6LB

- 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 Audrey Smart against the decision of North Somerset District Council.
 - The application Ref 23/P/0786/FUH, dated 14 April 2023, was refused by notice dated 22 September 2023.
 - The development proposed is replacement of the existing rear balcony with new raised balcony.
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Decision

1. The appeal is allowed and planning permission is granted for replacement of the existing rear balcony with new raised balcony at 6 Drakes Way, Portishead, BS20 6LB in accordance with the terms of the application, Ref 23/P/0786/FUH, dated 14 April 2023, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with following the approved plans: 6/DW/P/00/P; 6/DW/P/02/P (Rev A); 6/DW/P/04/P (Rev A); 6/DW/P/05/P (Rev A); 6/DW/P/06/P (Rev A); 6/DW/P/08/P (Rev A).
 - 3) The privacy screen to the east side of the balcony hereby permitted shall be provided in accordance with the approved plans before the said balcony is brought into use. The privacy screen shall be maintained permanently thereafter in accordance with the approved details.

Main Issue

2. The main issue is the effect of the proposed development upon the living conditions of occupiers of 25, 27 and 29 Raleigh Rise, with particular regard to privacy.

Reasons

3. The appeal site relates to a detached house in a residential estate built on a steep slope overlooking the Severn Estuary. The front of the house, facing the road, is single storey. The ground floor extends back over a lower ground floor where the land falls away towards the river. An existing balcony, accessed

through double doors from the dining room, overlooks the rear garden and the back of houses on Raleigh Rise, which runs parallel and just below Drakes Way. Mature hedges and trees screen views into the rear windows of the nearest houses, Nos 25, 27 and 29 Raleigh Rise.

4. The Council's Residential Design Guide Supplementary Planning Document (2013) (SPD) sets a minimum distance of 21 metres between upper floor windows and neighbouring habitable rooms to protect privacy. It notes that where there are significant differences in ground levels, and in the case of balconies where there is an increased potential for overlooking, the distance may need to be greater. The existing balcony already falls well short of the guidance. Other balconies on the rear of properties nearby also fall below the minimum separation distance guideline.
5. The proposed development would increase the width of the balcony either side, but it would remain set in from the sides of the house. It would extend approximately 1.3m further out over the garden and thus reduce the gap between it and the rear windows of Nos 25, 27 and 29. However, I do not consider the slight reduction in distance is enough to increase the potential for overlooking much beyond that which already exists. I note the Council's concern that vegetation preventing mutual overlooking could be removed, but that is currently the case and not made any more likely by the proposal. The increased size of the balcony may occasionally lead to more people using it but, overall, I do not consider that the living conditions of occupiers of houses to the rear would be affected to such a degree that it would warrant withholding planning permission. Although the proposed development would not meet the specific requirements of the SPD, it would not conflict with Policies DM32 and DM38 of the North Somerset Sites and Policies Plan (Part 1) (2016) which seek to protect the living conditions of adjoining occupiers.

Other Matters

6. I have had regard to neighbour's concerns over the effect of the proposal on noise levels, the value of their property and the proposal setting a precedent for similar developments. I do not consider the modest increase in activity that would occur from increasing the size of the balcony would lead to a significant increase in noise and the Council did not raise any concerns in this regard. The courts have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property cannot be a material consideration. Any potential future planning application for a balcony elsewhere would be a matter for the Council to determine on its own individual merits.

Conditions

7. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans to provide certainty. The Council's suggested condition requiring materials to match that of the existing building is not appropriate as the materials to be used in construction are different to that of the main house and are acceptable. I accept the Council's concern regarding the privacy of neighbouring occupiers at 4 Drake's Way and the necessity of imposing a condition to ensure the proposed side screen is installed to prevent overlooking into their property.

Conclusion

8. For the reasons given above I conclude that the appeal should be allowed.

P D Sedgwick

INSPECTOR