



Appeal Decision

Site visit made on 20 February 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12.03.2024

Appeal Ref: APP/W3005/D/23/3334904

7 Roderick Avenue, Kirkby in Ashfield, Nottinghamshire, NG17 9DB

- 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 and Mrs Paul Brailsford against the decision of Ashfield District Council.
- The application Ref V/2023/0521, dated 7 September 2023, was refused by notice dated 7 November 2023.
- The development proposed is described as a balcony to rear.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Upon my site visit I noticed that whilst the rear balcony had not been erected at first floor level, a sliding glass door as shown in the proposed plans had been erected. As such, the scheme is partly retrospective and I have made my decision on this basis.

Main Issues

3. The main issues are the effects of the development upon the living conditions of surrounding occupiers, with particular regard to overlooking and privacy to No. 258 Nuncargate Road.

Reasons

4. The appeal site contains a detached dwelling which appears to date from the mid-late twentieth century along with other neighbouring dwellings fronting Roderick Road. The topography of the land is quite steep in this location, with land falling from Roderick Road to the rear of the dwelling. The topography is illustrated by the appeal dwelling appearing as a one and a half storey dwelling from the street, but a two and a half storey dwelling from the rear. To the rear of dwellings there is evidence of extensions, some like neighbouring No.5 Roderick Road that has a very large rear balcony that directly overlooks the appeal site. Given the topography of the land at the rear there is an increased perception of overlooking from neighbouring properties.
5. Whilst I acknowledge the Appellant's comments that the policies in question for assessing impact upon living conditions provides no measurable assessment, in these particular cases, there are also more subjective considerations around what is perceived and how that perception affects living conditions. I therefore disagree that the assessment is purely regarding separation distances between properties as in this instance measurements cannot solely determine

appropriateness. I appreciate that the Residential Design Guide offers indicative separation distances and that these distances are taken from a scenario where both dwellings are on level topography. This is not the case here. The combination of height, topography and prominence of the proposed balcony; which would be taller than the neighbouring balcony, would be quite intrusive to surrounding occupiers and the use of the balcony and interference towards living conditions would be readily apparent from neighbouring residents attempting to enjoy their private garden space, particularly to the rear at No. 258 Nuncargate Road.

6. I am not convinced by comments from the Appellant that a balcony would provide similar overlooking opportunities as to what is already experienced from rear windows at first floor level. There is a clear difference in the perception of overlooking and loss of privacy from persons sitting, associated gatherings, bbqs or standing on a balcony for long periods of time as opposed to any overlooking caused, for example, from a rear window which would go largely unnoticed. Given the suburban environment, these changes to the perception of overlooking and privacy as a result of this development carry a significant impact to the living conditions of surrounding occupiers.
7. In conclusion on this matter, the scheme would cause significant harm to the living conditions of surrounding occupiers, and in particular to No.258 Nuncargate Road, as a result of overlooking and loss of privacy. Consequently, the scheme would be contrary to policy ST1 (a and b) and HG7 (b) of the Ashfield Local Plan Review which seeks that there are no unacceptable adverse impacts upon amenity.

Conclusion

8. The appeal is therefore dismissed.

J Somers

INSPECTOR