
Appeal Decision

Site visit made on 7 March 2023

by Rebecca McAndrew, BA Hons, MSc, PG Dip Urban Design, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/U3935/D/24/3336727

32 Crickdale Road, Swindon SN2 8AA

- 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. S. Selba against the decision of Swindon Borough Council.
 - The application S/HOU/23/1234/JAAB, dated 3 October 2023, was refused by notice dated 6 December 2023.
 - The development is an existing close boarded fence on a first floor flat roof.
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Decision

1. The appeal is allowed and retrospective planning permission is granted for a close boarded fence on a first floor flat roof at 32 Crickdale Road, Swindon SN2 8AA, in accordance with the terms of the application, Ref S/HOU/23/1234/JAAB, dated 3 October 2023, and the plans submitted with it, subject to the following condition:

1. Unless within 2 months of the date of this decision a scheme for the installation of a privacy screen on the boundary of the balcony with No 34 Crickdale Road, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the balcony hereby approved shall cease and the fencing shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the area as a balcony shall cease and the fence shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that privacy screen shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Main Issues

2. The main issues are;
 - i) The effect of the balcony on the character and appearance of the site and the surrounding area; and

- ii) The effect of the proposed extension on the living conditions of the neighbouring residents, with particular reference to privacy and the potential for noise and disturbance.

Reasons

Character and Appearance

3. A wooden fence has been installed around the perimeter of a single storey flat roof structure, at the rear of the appeal building. This forms a balcony area which is accessed directly from the first floor flat.
4. I note that there are no existing balconies to the rear of the row of commercial properties within which the appeal property sits, or in the immediate vicinity. However, this rear elevation includes a range of design features, particularly at first floor level. This includes, for example, fire escapes, pitched and flat roofs and a variety of materials. The balcony sits comfortably within this mixture of structures and therefore does not appear overly prominent.
5. I recognise that the wooden fence increases the overall bulk and mass of the flat roof rear projection of the appeal property. However, it is well-screened by other properties and therefore there are limited close and wider views of it within the area. Also, the ageing of the wooden fence over time will soften its appearance.
6. Views of the fence from the upper floor of properties on Mervyn Webb Place are partially obscured by the pitched roof of a single storey structure which sits between them and the appeal property. The fence is visible from first floor windows of some dwellings on Caulfield Road. However, those residents view the fence from a distance in the context of the mix of design features, as I have described, so it is unlikely to appear overly prominent.
7. Taking all of the above into account, the balcony with associated fencing is not an incongruous or visually intrusive feature. It does not unacceptably harm the character and appearance of the site or area. As such, there is no conflict with Policies DE1 of the Swindon Borough Local Plan 2026 (2015) (SBLP), the Residential Extensions and Alterations Supplementary Planning Document (2011) (REASPD) and the National Planning Policy Framework ('the framework') which, taken together, seek to secure development which responds to context and character, in terms of built characteristics and existing site conditions.

Living Conditions of Neighbouring Occupiers

8. There are direct views from the balcony area into the first-floor windows of some properties in Mervyn Webb Place. This is clearly harmful to the privacy of these neighbouring occupiers. However, I am satisfied that the installation of a privacy screen along the boundary of the balcony with No 34 Crickdale Road would prevent overlooking of those neighbours. A screen would not appear out of keeping if well-designed and subject to Council approval. Therefore, I impose a condition requiring a scheme to be submitted for the approval of the local planning authority.
9. The Council's second reason for refusal also refers to the potential for the balcony area to lead to noise and disturbance to neighbouring flats. However, the facility provides private garden space for a relatively modest flat and its

day-to-day use is unlikely to generate an unacceptable level of noise. It is common for residential properties and adjacent rear garden areas to exist in harmony. Whilst this is usually at ground floor level, in terms of likely activities and the associated level of noise, there are no significant differences to this arrangement at first floor. Moreover, planning decisions must be based on an assumption that occupiers reside in a considerate manner. Legislation is in place to deal with those who do not. In light of these factors, I am satisfied that the proposal would not cause unacceptable levels of noise and disturbance for nearby residents.

10. Subject to a condition requiring a privacy screen, the living conditions of neighbouring occupiers would not be unduly harmed by this development. As such, there is no conflict with Policy SD1 of the SBLP, the REASPD and the Framework which seek to protect amenity, in terms of both privacy and disturbance.

Condition

11. I impose a condition requiring details of a privacy screen to be submitted and approved to protect the living conditions of nearby occupiers.
12. The Council has requested a condition requiring the development to be carried out in accordance with the approved plans. However, given that this is a retrospective consent, this is not necessary.

Conclusion

13. For the reasons given above, I allow the appeal.

Rebecca McAndrew

INSPECTOR