
Appeal Decision

Site visit made on 27 April 2024

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th May 2024

Appeal Ref: APP/T2405/D/24/3337622

122A Little Glen Road, Glen Parva, LEICESTER LE2 9TS

- 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 Peter Irighogbe against the decision of Blaby District Council.
 - The application Ref 23/0804/HH, dated 24/09/2023, was refused by notice dated 13 November 2023.
 - The development proposed is balustrade on balcony.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The flat roof of a ground floor extension at the rear of the appeal property has been enclosed by a glass balustrade to form a balcony and it is in use. This appeal is therefore being determined retrospectively.

Main Issues

3. The main issues are the effect of the appeal proposal on the living conditions of neighbouring occupiers and its effect on the character and appearance of the surrounding area.

Reasons

4. Due to the staggered layout of buildings in the area, there is mutual overlooking of the gardens belonging to the appeal property (No 122A) and its neighbours. From the first-floor rear bedroom window of No 122A, there are short range views over and down into the rear parts of the back gardens of surrounding properties, including those belonging to the immediate neighbours; No 2 Bayswater Drive and No 122 Little Glen Road. This is a common situation in residential areas.
5. However, the glazed balustrade around the edge of the flat roof of the single storey extension at No 122A enables this roof to be used as a balcony. The physical relationship between the balcony and its neighbours results in significant levels of direct overlooking into their rear habitable room windows. There are also views over the entire garden areas of the two adjoining properties, including the most private parts of the garden immediately to the rear of the buildings. The appellant suggests that the resulting harm is no greater than before the balustrade was erected. However, the roof area was

- previously open with no safety barriers at the edge of the roof, it was therefore unusable as a balcony. I therefore give little weight to this argument.
6. I have considered whether a more visually solid form of screening, secured by condition, could make the proposal acceptable on amenity grounds. Whilst side screening immediately adjacent to the rear wall of the host property would limit overlooking of the more private areas of the neighbouring properties, the potential for overlooking these areas from the remainder of the balcony would remain. Without a comprehensive review of the extent of the balcony and the various views from it towards the neighbouring properties, I conclude that a condition in the terms suggested would not overcome the identified harms.
 7. It is also suggested that the balcony is unlikely to be used all year round, nor for long periods. However, any use of the balcony, even if limited, results in harmful overlooking and future occupiers may occupy the property in a different way to the appellant. Furthermore, the frequency of its use could not reasonably be controlled by condition.
 8. I conclude that the proposal results in a substantial and harmful loss of privacy to the occupiers of neighbouring properties. For these reasons it is contrary to Policy CS2 of the Blaby District Council Local Plan (Core Strategy) Development Plan Document (2013) (CS) and Policy DM1 of the Local Plan (Delivery) Development Plan Document (2019) (LP).
 9. In terms of its appearance, the glazed balustrade is well designed and its contemporary clean lines and transparency upon a flat roof which already exists are not out of keeping with, or detrimental, to the character and appearance of the existing dwelling. There are limited public views of the rear of No 122A. Nonetheless, the proposal sufficiently respects the varied character of the local area. I conclude that there is no conflict with the design objectives of CS Policy CS2 and LP Policy DM1.

Other matters

10. The proposal could to some extent be considered to demonstrate a sustainable way of increasing the amount of outdoor amenity space to meet the evolving needs of the homeowners and of adapting the dwelling for modern living. Furthermore, it is not disputed that the balustrade has delivered economic benefits to the area through its purchase and installation. However, these factors do not outweigh the significant harm to the living conditions of neighbouring occupiers that has been identified.
11. For the reasons set out above and having regard to all other matters raised, the appeal is dismissed.

Elaine Benson

INSPECTOR