



Appeal Decision

Site visit made on 11 June 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st July 2024

Appeal Ref: APP/V0728/W/23/3331625

4 Serenity Hollow, Boosbeck, Cleveland TS12 3DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs T Hughlock against the decision of Redcar and Cleveland Borough Council.
 - The application Ref is R/2023/0472/RC.
 - The application sought planning permission for a detached dwellinghouse (part retrospective) without complying with conditions attached to planning permission Ref R/2021/0245/FF, dated 28 October 2021.
 - The conditions in dispute are Nos 3 and 4 which state that:
(3) Within three months of the date of this approval all parts of the balcony shall be removed in accordance with the East Elevations Revised 3.08.2021 drawing submitted to the Local Planning Authority on the 3 August 2021. The flat roof of the porch/canopy area shall not be used as a balcony for the lifetime of this development.
(4) Within three months of the date of this approval the existing French doors shall be replaced with a fixed glazing panel in obscure glazing, obscurity level 4, in accordance with the details shown on the Proposed Floor Plans Revised 3.08.2021. The fixed panel and obscure glazing shall remain and be maintained in perpetuity during the lifetime of the dwelling.
 - The reason given for the conditions is: *To protect the amenity of neighbouring occupiers in accordance with Redcar and Cleveland Local Plan Policy SD4.*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already been carried out and therefore I am considering this appeal retrospectively.

Background and Main Issue

3. Planning permission for a detached dwellinghouse (part retrospective) included conditions that the balcony should be removed and that the French doors be replaced with a fixed glazing panel. The appellant seeks to remove condition 3 thereby permitting the retention of the balcony and vary condition 4 by allowing the retention of the French doors.
4. The Council refused the removal and variation of the conditions on the basis that the retention of the balcony and the French doors would cause the loss of privacy for the occupiers of 5 Serenity Hollow.

5. Taking the above into account, the main issue is the effect of removing and varying the conditions on the living conditions of the occupiers of No 5, with regard to privacy.

Reasons

6. The appeal property is a two-storey dwelling with French doors at the first floor that open onto a balcony, from which I was able to see most of the garden at No 5. It is indicated that because the appeal property has a large private garden the balcony has not been used by the occupiers except to tend to the numerous plants that currently occupy the majority of the balcony space. Furthermore, the balcony is said to be the only safe place for plants owing to the current occupiers being dog owners. Nevertheless, the balcony is of a considerable size and were the plants removed or rearranged it could accommodate garden furniture and be used for sitting out.
7. The balcony has been added to the appeal property as an architectural feature to create interest, and even if it has not been designed for sitting out and is not used in this way by the current occupiers, planning permission usually runs with the land, and owing to its size, the balcony could readily be used in this way, enabling direct views, at proximity, into the garden at No 5. This would potentially be for prolonged periods of time, resulting in a loss of privacy to the neighbouring occupiers, that would harmfully compromise the reasonable use and enjoyment of their garden.
8. It is indicated that the lease to the property states that occupiers are prohibited from sitting out on the balcony which must only be used to house plants, and that signs could be placed on the balcony to remind occupiers of this. Furthermore, it is suggested that an appropriately worded planning condition could be imposed to secure the use of the balcony in this way and would be easily regulated as it would be clear that the plants had been removed.
9. However, in my view, such a condition would not meet the policy tests set out in the Planning Practice Guidance. It would not be enforceable as monitoring in the circumstances would be unreasonably onerous or practicably impossible, taking into account that there would still be the presence of people on the balcony, for extended intervals, even if they were watering the plants. The appellant has indicated that they could install a Juliet balcony to prevent occupiers sitting out. However, I do not have any plans showing this and it would not be appropriate to comment on a scheme I have not seen.
10. I have carefully considered the comments from neighbouring occupiers, including the current occupiers of No 5, who support the appeal scheme and value the balcony and the plants on it for its visual amenity. However, given the permanent nature of the development, its effects need to be considered in the long-term, with regard to future occupiers as well as the current ones. Therefore, while I have had full regard to these matters, they do not outweigh the harm that would result from the retention of the balcony and French doors.
11. There are examples of balconies at other properties in the street, however, they principally overlook the public realm and do not affect occupiers' privacy in the same way the appeal development does. Even if No 3 is sited in proximity to Nos 1 and 2, the context is different to the appeal property as Nos 1 and 2 do not have first floor balconies. It is also suggested that a similar balcony has been permitted by the Council, however this is in another

settlement and while I do not have precise details, the circumstances are likely to be different and, in any event, I have determined this appeal scheme on its own planning merits. The other examples do not therefore lead me away from my above findings.

12. Accordingly, the removal and variation of the conditions would be harmful to the living conditions of the occupiers of No 5, with regard to privacy, in conflict with Policy SD4 of the Redcar and Cleveland Local Plan (2018). Amongst other things, this policy requires development to not have a significant adverse impact on the amenities of occupiers of existing buildings.

Other Matters

13. While the appellant has expressed frustrations with the Council's handling of the case, this does not alter or outweigh my findings which are based on the planning merits of this case.

Conclusion

14. My above findings bring the development into conflict with the development plan, read as a whole. There are no material considerations that indicate that I should take a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR