
Appeal Decision

Site visit made on 16 April 2014

by M Seaton BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 May 2014

Appeal Ref: APP/H0738/D/14/2214761

28 Crosswell Park, Ingleby Barwick, Stockton-on-Tees, TS17 5BE

- 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 Mrs C Mundy against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 13/2071/FUL, dated 15 August 2013, was refused by notice dated 23 January 2014.
 - The development proposed is described as "balcony to rear over existing flat roof".
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Decision

1. The appeal is allowed and planning permission is granted for the part retrospective erection of a single storey extension to the side and rear, and installation of a first floor balcony to the rear at 28 Crosswell Park, Ingleby Barwick, Stockton-on-Tees, TS17 5BE in accordance with the terms of the application, Ref 13/2071/FUL, dated 15 August 2013, subject to the conditions below:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No. SBC0001A.
 - 2) Prior to the balcony hereby approved being brought into use, a 1.8 metre high screen panel shall be erected for the length of the balcony along the eastern/side elevation as indicated on plan SBC0001A (dated 9 December 2013) and shall be fixed and obscurely glazed using a minimum of type 4 opaque glass and shall be retained for the lifetime of the development hereby approved.

Procedural Matters

2. The description of the proposal differs between the planning application form and the Council's decision notice. The Council has included in the description reference to the erection of the single storey extensions to the side and rear of the property as well as the creation of a balcony, which it would appear the appellant was advised of in advance of the registration of the planning application. Subsequently, I note that the appellant has also adopted the Council's description of development in the Grounds of Appeal, and I am satisfied that the amended version would be an accurate reflection of what is proposed and what was formally considered at the planning application stage. I am therefore determining the appeal on the basis of the following:

"Part retrospective erection of a single storey extension to the side and rear, and installation of a first floor balcony to the rear."

3. The content of the recently published Planning Guidance has been considered, but in light of the facts in this case the Planning Guidance does not alter my conclusions.

Main Issue

4. The Council has concluded that that the single-storey extension element of the proposals would be acceptable in respect of its impact on the existing dwelling and the visual amenity of the surrounding area. Furthermore, the Council has concluded that the scale and position of the extension would not in itself result in any adverse loss of amenity for neighbouring occupiers in terms of outlook, loss of privacy, or loss of light. From my observations of the extension as implemented on site, I would agree with these conclusions.
5. On this basis, the main issue would be the effect of the proposed balcony on the living conditions of the neighbouring occupiers of No.30 Crosswell Park, having regard to privacy.

Reasons

6. The appeal property is a detached dwelling within a large residential estate, with a south-west facing terraced rear garden overlooking open countryside and a river valley immediately to the rear. The dwelling is located adjacent to a footpath accessing the land to the rear, which runs along the western boundary of the property.
7. The extension the subject of this application has been completed with a flat roof element closest to the boundary with the neighbouring dwelling at No.30 Crosswell Park, to facilitate the provision of a balcony. The first floor rear elevation already incorporates double doors which have been in place for some time as part of a 'Juliet' balcony. The position of the doors relative to the boundary with the neighbouring property provide significant existing opportunities for the overlooking of the patio area closest to the rear of the dwelling, as well as the remainder of the rear garden.
8. The proposed balcony and platform would include a 1.8 metre high obscurely glazed screen along its eastern side facing No.30, which would provide privacy for both users of the balcony and neighbouring occupiers. Whilst the provision of a balcony at first floor level would introduce both the perception of overlooking and the potential for external activity in an elevated position relative to the level of the neighbouring garden, the provision of the privacy screen would in effect remove the existing ability of the appellant to readily overlook the patio area immediately to the rear of the neighbouring dwelling. This would improve the existing privacy levels experienced by occupiers of No.30, with the screen also preventing the potential for loss of privacy to the rear windows of neighbouring habitable rooms. Whilst I accept that the balcony and platform would present the potential for a limited increase in the level of overlooking of the rearmost part of the neighbouring garden compared to existing windows, this must be balanced against the benefit of improving the privacy levels for neighbouring users of the adjacent patio provided by the proposal. In this respect, I am satisfied that the privacy gain would outweigh any additional harm from activity on the balcony or overlooking of the neighbouring garden of No.30.

9. I have noted the relationship between the appeal property and No.26 Crosswell Park, and agree with the Council's assessment that there would not be a resultant loss of amenity for occupiers of this dwelling from the proposed balcony. In reaching my conclusions I have also had regard to an appeal decision submitted in support of the Council's case, and details of balconies and other developments nearby where the relationship is considered by the appellant to be similar to the appeal proposals. However, in both cases the evidence submitted does not provide me with sufficient detail to conclude that the circumstances of development and decision-making in these instances would be similar to that of the appeal proposals. In any event, I have determined the appeal on the basis of the planning merits of the case and submitted evidence, and the references to other development have not therefore had any significant bearing on my decision.
10. I have concluded that the proposed balcony would not have an adverse effect on the living conditions of the neighbouring occupiers of No.30 Crosswell Park, having regard to privacy. The development would therefore accord with saved Policy HO12 of the Stockton-on-Tees Local Plan 1997, which seeks to ensure that extensions and other domestic development avoids any significant loss of privacy and amenity for the residents of neighbouring properties.

Other Matters

11. I have noted the appellants' evidence in respect of procedural matters relating to the planning application and how the Council dealt with it. However, these are not matters that are particularly germane and have not therefore had a significant bearing on my determination of the appeal.

Conditions

12. The Council has suggested conditions which it considers would be appropriate were the appeal to be allowed. I have considered these below in the light of paragraph 204 of the National Planning Policy Framework.
13. In the interest of proper planning, a condition relating to the identification of plans would be necessary in order to provide certainty over the development. However, whilst I have taken into account the Council's suggestions regarding conditions related to the commencement of development and the approval of matching materials, I have found that with the extension having already been implemented, there would be no necessity for these conditions to secure the delivery and appearance of the development. However, a condition requiring the provision and retention of a screen on the eastern side of the balcony would be necessary in order to safeguard the living conditions and privacy of the neighbouring occupiers of No.30 Crosswell Park.

Conclusion

14. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed subject to the conditions listed.

M Seaton

INSPECTOR