



Appeal Decision

Site visit made on 13 February 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th March 2024

Appeal Ref: APP/T2350/W/23/3329857

107 Whalley Road, Read, Lancashire BB12 7RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Ms Claire Yates against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2023/0464, dated 8 June 2023, was approved on 7 August 2023 and planning permission was granted subject to conditions.
 - The development permitted is a single-storey extension to rear with balcony to first floor and alterations to first floor rear windows.
 - The condition in dispute is no. 4 which states that: *"Notwithstanding the submitted plans, the rear balcony hereby approved shall comprise two solid privacy screens at a minimum height of 1.8m on both the Eastern and Western sides which shall be constructed in materials to match the proposed single storey extension of buff brick and white render and shall be fully constructed prior to the first use of the balcony and shall thereafter be retained in perpetuity"*.
 - The reason given for the condition is: *"in order to ensure that the development does not result in any undue impact on residential amenity"*.
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Decision

1. The appeal is allowed and the planning permission Ref 3/2023/0464 for a single-storey extension to rear with balcony to first floor and alterations to first floor rear windows at 107 Whalley Road, Read, Lancashire BB12 7RP granted on 7 August 2023 by Ribble Valley Borough Council, is varied by deleting condition no.4 and substituting it for the following condition:
 4. Notwithstanding the details shown on the approved plans, the balcony hereby permitted shall not be brought into use until obscure glazed privacy screens measuring 1.8m in height have been installed to the eastern and western (side) elevations. Details of the type of obscure glazed privacy screening to be used shall be submitted to and approved in writing by the local planning authority before it is installed and once installed the privacy screening shall be retained thereafter.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Background and Main Issue

3. Planning permission has been granted for a single-storey extension to the rear of the existing property with a balcony to first floor and alterations to first floor rear windows. The appeal seeks permission to carry out the development without complying with condition 4 which requires two solid privacy screens at a minimum height of 1.8m to be constructed on both the Eastern and Western sides of the rear balcony, and to be constructed in materials to match the proposed single storey extension of buff brick and white render. The condition requires that the screens shall be fully constructed prior to the first use of the balcony and shall thereafter be retained in perpetuity. The reason given for imposing the condition is in order to ensure that the development does not result in any undue impact on residential amenity.
4. The appellant is seeking the removal or variation of this condition on the basis the condition fails to meet the tests set out in the Framework and Planning Practice Guidance (PPG). The appellant considers that the condition is unnecessary on the basis that the proposed development would not be harmful to the living conditions of neighbouring occupiers through loss of privacy. However, they accept that if harm to neighbouring occupiers' privacy is found, that this could be mitigated by requiring the installation of obscure glazed privacy screens, which are shown on the submitted plans. The Council considers that the condition is necessary and that use of obscure glazed screens would not afford the neighbouring occupier's sufficient privacy, given the limited distance between the properties and the proposed balcony.
5. Therefore, the main issue is whether the solid privacy screens at a minimum height of 1.8m to be constructed on both the Eastern and Western sides of the rear balcony are reasonable and necessary in order to protect the living conditions of the occupants of Nos. 105 and 109 Whalley Road, with particular regard to privacy.

Reasons

6. The appeal site, No. 107 Whalley Road, is a large detached, 1960's bungalow. The appeal site and neighbouring properties, Nos. 105 and 109 Whalley Road, have large rear gardens which overlook open fields. The surrounding area is characterised by a linear pattern of detached dwellings, most of which have been altered and extended. They are located on the outskirts of the village of Read.
7. The proposed development would comprise a modest, single-storey rear extension, measuring approximately 1.5 metres in depth. The proposed balcony would be located above the extended part. However, it would not project beyond the rear walls of Nos. 105 and 109, with both of these properties extending further into their rear gardens than the appeal site. Although, I did observe side facing windows in both neighbouring properties, these would not be directly overlooked by the proposed balcony.
8. In respect of No. 105, I acknowledge that there is an upper floor window, located within the gable of this property. However, it faces directly towards the gable of the appeal property, not towards the proposed balcony, which would be located forward of this window. As a result, it would not result in direct overlooking, any views would be diagonal and limited by virtue of the layout of the buildings and proposed balcony.

9. Therefore, whilst the I accept that the proposed balcony would be located in close proximity to shared boundaries, any immediate sideways views would be towards blank walls or roof slopes and not directly towards any side facing windows or private garden areas. It would not therefore lead to an unacceptable loss of privacy from neighbouring windows.
10. In terms of the garden areas, there is already, due to the linear pattern and layout of the existing properties, an existing degree of intervisibility between the gardens of these properties from the large upper floor windows within the rear elevations. This is no greater than would typically be found in properties with a similar, linear layout such as these. At my site visit I observed that the primary views from the existing rear elevation windows are forward-facing, across the appeal site's large garden and beyond to the open fields. These views would be similar from the proposed balcony.
11. Notwithstanding this, the proposed development would nevertheless result in the creation of a raised platform, which can be used as a space to sit and enjoy and from which opportunities for overlooking, or the perception of being overlooked would be likely to increase. However, due to the limited size of the proposed balcony, measuring approximately 1.5 metres in depth, the ability to stand or sit a little further forward, would not significantly change the degree of overlooking into neighbouring gardens.
12. Consequently, I am not persuaded that the views from the proposed balcony would provide overlooking opportunities that would be unduly harmful to the living conditions of neighbouring occupiers to such a degree that it would necessitate the provision of a solid brick panel, as is currently required by condition no.4. The submitted plans indicate the use of obscure glazed privacy screen at either end of the proposed balcony and I have not been presented with any compelling evidence to demonstrate that the use of obscure glazed privacy screening as shown on the submitted plans, would not be an effective mechanism to ensure the good levels of privacy for the occupiers of Nos.105 and 109 would be maintained. I therefore find that subject to the installation of obscure glazed privacy screening, this would be sufficient to ensure there is no adverse harm to the living conditions of neighbouring occupiers.
13. I therefore conclude that the disputed condition is not reasonable or necessary in the interests of protecting the living conditions of the occupants of Nos. 105 and 109 with particular regard to privacy. However, for the above reasons, a condition requiring the provision of obscure glazed privacy screening, as shown on the submitted plans, is necessary. The development with a revised condition to that effect would thus comply with Policy DMG1 Core Strategy 2008-2028: A Local Plan for Ribble Valley, adopted December 2014. This policy requires, amongst other things, that development must not adversely affect the amenities of the surrounding area and provide adequate privacy distances.

Conditions

14. For the reasons set out above, I have concluded that it is not necessary for a condition to be imposed requiring provision of a 1.8 metre-high solid, brick panel to each end of the balcony. However, I find that an amended condition is necessary to ensure that obscure glazed privacy screening is provided in order to protect the living conditions of neighbouring occupiers.

15. Whilst the submitted plans indicate provision of a 1.8 metre high, obscure glazed privacy screen at either end of the proposed balcony, this is not supported by any details of the glazing or level of obscurity to be used. Consequently, I therefore find that a condition requiring the submission and approval of the details of the glazing to be used and prohibiting the use of the balcony until the approved screen has been constructed and retained thereafter is necessary to ensure that the living conditions of the occupiers of neighbouring properties are protected.

Conclusion

16. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

K Lancaster

INSPECTOR