



Appeal Decision

Site visit made on 6 December 2018

by AJ Mageean BA (Hons) BPI PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2019

Appeal Ref: APP/Z2505/D/18/3201027
76 Spilsby Road, Boston PE21 9NS

- 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 J Duffy against the decision of Boston Borough Council.
 - The application Ref B/17/0422, dated 17 October 2017, was refused by notice dated 20 April 2018.
 - The development proposed is balcony, door, screening & decoration.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time the planning application was made the development had already been carried out.
3. I am aware that prior to the refusal of the scheme which is the subject of this appeal, planning permission was granted for another scheme involving the erection of a balcony. I understand that this was subject to further details relating to decorative screening being submitted. Details of this scheme are not before me, though I understand that it was for a smaller balcony area. I have therefore determined this case on its own merits.

Background and Main Issues

4. The appeal property is a Grade II listed building. A listed building consent application for this scheme was also refused, though this was subsequently allowed at appeal¹. However, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard must be had to the desirability of preserving the building or its setting or any feature of special architectural or historic interest it possesses. I am also aware that the site is located within the Spilsby Road Conservation Area, and as such Section 72(1) also applies. I must therefore give consideration to the effect of the development on these heritage assets as part of my decision.
5. The main issues are:

¹ APP/Z2505/Y/17/3168118

- the effect of the development on the living conditions of the occupiers of neighbouring properties with particular reference to privacy, natural light and outlook; and,
- the effect of the scheme on the special interest and significance of the listed building, and the wider conservation area.

Reasons

Living conditions

6. The appeal property is an end terrace which is located closely adjacent to the next group of properties directly to the west. In common with other properties in this grouping it has a rear two storey outrigger.
7. The rear balcony has been inserted to adjoin the property at first floor level, accessed by a doorway in the return elevation of the outrigger. The balcony is to a large degree enclosed by built form on three sides: the outrigger and main wall to the host property, and the return elevation of the outrigger to No 78 Spilsby Road. It extends beyond the furthest extent of the outriggers, with a stairway extending from its western side into the garden beyond.
8. The 'decorative screening' positioned in front of the small side window to the bathroom of No 78 has sought to address concerns about loss of privacy. I was able to see on my site visit that this window provides light directly into the shower cubicle. As such this is a highly sensitive area. Whilst the window is obscure glazed, when backlit during the hours of darkness there would remain a degree of transparency which would enable some visibility of showering activity. The 'decorative screening' to a height of 1.8m positioned at an angle to the window comprises black painted perforated metal. Whilst this does to some extent reduce the degree of visibility of the window from the balcony, the window itself remains clearly visible through the screen. As such it does not appear that it would fully conceal views of the shower cubicle from balcony users when backlit.
9. Therefore, notwithstanding the uncertainty around when this bathroom window was inserted, it is apparent that the use of the balcony undermines the privacy of the occupiers of No 78 to a substantial and unacceptable degree.
10. Additionally, a solid metal screen has been added at the furthest extent of the balcony on the shared boundary of these properties to prevent overlooking of the further bathroom window on the rear elevation of No 78. As this main window is not obscure glazed this screen would assist in providing privacy. Whilst the Council refers to loss of light to and outlook from this window, my view is that this aspect of the scheme would not be significantly harmful as this is a non-habitable room.
11. The projection of the balcony by some 1.4m beyond the rear outrigger also means that it is positioned around 6m from the side elevation of No 74 Spilsby Road. Whilst most of the platform area is screened by the outrigger, the furthest 1.4m is in close proximity to the side kitchen/diner window of No 74. The regular use of the balcony would therefore have a harmful effect on the privacy of the occupiers of this dwelling.
12. I am aware that other nearby properties have balconies. However, there is no evidence before me to suggest that they give rise to issues of residential

amenity for the occupiers of adjacent properties of the nature identified in this case.

13. I appreciate that the appellant has sought to gain a view over his garden from this balcony, and that he has sought to appease his neighbours by adapting the development. Whilst the Council also refers to effects on natural light and outlook, I have not found significant harm in these regards. However, I have found that this development has a harmful effect on the living conditions of the occupiers of neighbouring properties with particular reference to loss of privacy. As such there is conflict with the Boston Borough Local Plan (1999) saved Policy G1, which requires that development should not substantially harm the amenities of nearby residents because of its nature, scale or layout.

Listed building and conservation area

14. No 76 Spilsby Road is listed as part of the terrace with No's 78-82 which dates from the 1830's. This terrace is closely associated in design terms with the adjacent pair, No's 74 and 72. The special interest and significance of this grouping lies largely in their attractively detailed front elevations, with their balanced and symmetrical pattern of windows, stone steps up to panel doors with pilastered surrounds, brick plinths and overhanging eaves. This element of the buildings also makes a strong contribution to the setting of this key route into the town centre, and in this sense the character and appearance of the Conservation Area.
15. The balcony is a well-designed free standing structure located at the rear of the property, and there is a new door in the rear outrigger at first floor level. As such my view is that this development involves minimal disruption to historic fabric and preserves the special interest and heritage significance of the Grade II listed building and its setting. For the same reason the scheme also preserves the character and appearance of the Spilsby Road Conservation Area.

Conclusion

16. Whilst I have found that this development does not cause harm to designated heritage assets, the harm I have found to the privacy of the occupiers of adjacent properties is unacceptable and is therefore decisive in this case. I therefore find that this scheme conflicts with the development plan taken as a whole and there are no other considerations to outweigh this finding. Therefore the appeal is dismissed.

AJ Mageean

INSPECTOR