

Appendix B

Appeal by Mr N Chadwick

External Works and Conversion of 1st and 2nd floor to 3 self contained residential units at 2 York Street, Hasland, Chesterfield.

CHE/17/00800/FUL

2/3991

1. Planning permission was approved on 4th April 2018 for external works and conversion of 1st and 2nd floor to 3 self contained residential units at 2 York Street, Hasland. The permission was subject to conditions to which this appeal relates.

2. The conditions in dispute are:

01: Within 1 month of the date of this permission, details showing the removal of the west facing balcony and canopy and any consequential amendments to the building at second floor level shall be submitted to the local planning authority for consideration. The detail agreed in writing by the local planning authority shall be carried out within 6 months of the date of this permission; and

02: Within 1 month of the date of this permission details showing removal of the west facing French doors at second floor level and a replacement with a shall be submitted to the local planning authority for consideration. The new window shall be obscurely glazed to a minimum of Pilkington level 3. The details agreed in writing by the local planning authority shall be carried out within 6 months of the date of this permission and which shall be retained as such thereafter for the life of the development.

3. The appeal has been allowed and the planning permission has been varied by the deletion of condition 2 and its substitution for a revised condition 2 below however Condition 1 is retained as originally set out. The conditions now read:

01. Within 1 month of the date of this permission, details showing the removal of the west facing balcony and canopy and any consequential amendments to the building at second floor level shall be submitted to the local planning authority for consideration. The detail agreed in writing by the local planning authority shall be

carried out within 6 months of the date of this permission.

02. Within 1 month of the date of this permission details showing removal of the west facing French doors at second floor level and replacement with a window shall be submitted to the local planning authority for consideration. The details agreed in writing by the local planning authority shall be carried out within 6 months of the date of this permission and which shall be retained as such thereafter for the life of the development.

4. The appeal relates to 2 York Street, a semi-detached property, situated in a corner position at the junction of York Street and Hampton Street. Planning permission was granted in April 2018 for the conversion of the first and second floor of the property to three self-contained flats. The ground floor of the premises is in commercial use. At the time permission was granted, the change of use had already been carried out. The conversion scheme included alterations to the roof of the property from a hipped to a gabled roof, the installation of French windows, only one side of which opens, and a balcony covered by a projecting canopy. Permission was granted for the development subject to two conditions which now form the subject of this appeal. The conditions required, in effect, the removal of the French windows, balcony and canopy. Since the determination of the application, a balustrade has been erected around the balcony and a raffia screen installed.
5. The appellant is concerned about the conditions that were imposed on the permission. However, in appeals against conditions such as this, it is also necessary for the inspector to look at the development as originally sought. The main issues therefore are whether the disputed conditions are reasonable and necessary having regard to:
 1. The effect of the development on the character and appearance of the area.
 2. The effect of the development on the living conditions of the adjoining residents with particular regard to overlooking.

Character and Appearance

6. The area around the site is predominantly residential in character generally comprising semi-detached and terraced housing dating from the late 19th and early 20th centuries with some commercial uses, generally on street corners. Properties are generally two storeys in height with either hipped or pitched roofs. The inspector noted at the site visit that some buildings, including two nearby

properties on York Street, have rooms in the roof space and windows at a high level. Photographic evidence indicates that even prior to the construction of the roof extension, the pair of properties, 2 York Street and 14 Hampton Street, had an irregular appearance at the rear which included a two storey mono-pitched extension at No. 14 and an irregular pattern of windows. The Council does not object to the roof extension in itself, and given the variety of roof styles in the area, the inspector had no reason to disagree.

7. However, the balcony extension, including the canopy and balustrade, is a substantial addition to the building that projects from the rear elevation. Such an addition is a not common feature on houses of this age particularly at such high level. In terms of its form and design it does not reflect the architectural character or appearance of the building nor that of the surrounding area. Similarly the introduction of French windows at such a high level is not reflective of the character of the property or others in the area. Given that the building is a corner property and that the rear of the building is visible from public vantage points along York Street, the balcony structure including the canopy is a highly prominent and incongruous feature in the street scene. The inspectors attention had been drawn to balconies on other properties in the area, including one at the rear of the Hasland Hotel which is also owned by the appellant. However, the style and use of the hotel, and the context in which it is situated, differs from that of the appeal site. The inspector had also been provided with photographs of French doors at other properties in the area. Some of these relate to purpose built development of flats and form part of their design. The inspector did not have all the details of these developments, or the circumstances which lead to their approval and could not therefore be sure that they are comparable with the appeal proposal.
8. The inspector acknowledged the appellant's concern about fire risk and the intended use of the balcony as an escape platform. However, matters relating to fire risk are dealt with under other legislation. There was nothing before the inspector to indicate that the balcony is necessary to achieve an adequate level of safety within the property. The inspector also acknowledged the investment the appellant has made in the building. The change of use has provided three units of residential accommodation for local residents and the scheme has incorporated energy saving measures and security cameras. However, whilst these matters are benefits of the scheme as a whole, they have no bearing on the

main issue.

9. For the reasons set out above, the balcony and canopy structures are an incongruous and dominant addition to the building which detract from its appearance and cause harm to the character and appearance of the surrounding area. For similar reasons the high level French doors are an incongruous feature which do not reflect the architectural character of the property and thereby detract from it. As such the proposal fails to comply with Policy CS18 of the Core Strategy which requires new development to respond to and integrate with the character of the site and respect the local distinctiveness of its context.

Living conditions

10. Given the location of the site in a tight knit residential environment, a degree of overlooking between properties from upper floor windows is to be expected. However, the covered balcony has a different function to that of a window and provides outdoor amenity space for residents. Residents and their visitors are likely use the balcony for social reasons, standing or sitting outside for periods of time and accordingly there is greater opportunity for overlooking. Moreover, given the height and overbearing character of the structure, overlooking and activity associated with its use would be perceived by neighbouring residents as being considerably more intrusive than the presence of a window at this level. The inspector acknowledged that the appellant had taken steps to reduce overlooking by the introduction of the raffia screen. This screen also obscures views from within the property. However, this is a reversible measure, which in any event does not prevent outlook from the balcony over the top of the balustrade.
11. For the above reasons, the balcony, balustrade and canopy is contrary to Policy CS2 of the Core Strategy which seeks to ensure that all development has an acceptable impact on the amenity of adjoining occupiers by reason of, amongst other things, overlooking.
12. The inspector took into account the concerns of the Council regarding the French doors in terms of overlooking. However, whilst he agreed that they are visually inappropriate, windows per se are not uncommon at second floor level, and indeed there are second floor windows on properties fronting York Street overlooking the houses opposite. Moreover, there is unlikely to be significantly greater overlooking from this window than that at first floor level,

albeit that the positions of the windows on the rear elevation differs. Consequently the inspector was not convinced it is necessary for the replacement window to be fitted with obscure glass. As such, whilst that element of condition 2 which requires the removal of the French doors is necessary, it is not therefore reasonable or necessary for the condition to require that the replacement window is fitted with obscure glass. Consequently the condition is varied to remove the requirement for obscure glass.