
Appeal Decision

Site visit made on 29 November 2016

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 8 December 2016

Appeal Ref: APP/P2114/D/16/3155276

The Croft, Newport Road, Niton, Isle of Wight PO38 2QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jack Cronin against the decision of Isle of Wight Council.
 - The application Ref P/00332/16, dated 4 March 2016, was refused by notice dated 4 May 2016.
 - The application sought planning permission for the demolition of conservatory; proposed two storey extension on side elevation and single storey extension on rear elevation to provide additional living accommodation without complying with a condition attached to planning permission Ref P/00363/15 – TCP/05310/B, dated 16 June 2015.
 - The condition in dispute is No 4 which states that:
"During the construction of the two storey extension, the first floor windows located within the rear/south elevation (serving en suite and master bedroom) shall be:
a) fitted with obscure glass with a glazed panel which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent of glass supplied by alternative manufacturer)
b) non-opening unless the parts of the windows which can be opened are more than 1.7m above the floor on which the window is installed.
The windows shall be retained in accordance with this condition thereafter, unless approved in writing by the Local Planning Authority."
 - The reason given for the condition is:
"In the interests of the privacy and amenity of neighbouring properties and to prevent overlooking, and to comply with policy DM2 (Design Quality) of the Island Plan."
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of conservatory; proposed two storey extension on side elevation and single storey extension on rear elevation to provide additional living accommodation at The Croft, Newport Road, Niton, Isle of Wight PO36 2QP, in accordance with the terms of the application, Ref: P/00332/16, dated 4 March 2016 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan: 14:1980:3.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
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Preliminary matters

2. The appeal site visit was originally scheduled to be an access required site visit. However, due to the appellant being unavailable I carried out an unaccompanied site visit from both the appeal site and adjoining lane. In doing so, I am satisfied that I was able to see all that I needed to see to make a fully informed decision.

Main Issue

3. The main issue is whether the condition is necessary and reasonable in the interests of the living conditions of the occupants of the neighbouring property known as Windy Ridge, with reference to privacy.

Reasons

4. At the time of my site visit the two storey side extension appeared complete and the two first floor windows in the southern elevation were fitted with obscure glazing.
5. This elevation is separated from the property at Windy Ridge by a track that runs the full length of the boundary and wraps around to the rear of the garden at Windy Ridge to provide access to dwellings to the south and a field to the west.
6. As the rear garden of Windy Ridge is largely enclosed by post and wire fencing, unobstructed views of this space are already possible from the lane in a slightly elevated position. I acknowledge that clear and openable windows in this side elevation would add to the potential for overlooking, however, given that they serve a bathroom and dressing room, any additional harm or perceived harm arising would not be significant and would not warrant withholding permission.
7. Furthermore, it is reasonable to assume that when using a dressing room or bathroom that occupants would wish to retain their own privacy by the use of blinds or curtains etc. This in turn would preclude or minimise overlooking towards Windy Ridge.
8. I therefore conclude that Condition 4 is not necessary or reasonable in the interests of the living conditions of the occupants of the neighbouring property at Windy Ridge. Accordingly I do not find conflict its removal with Policy DM2 of the Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document, which relates to design quality for new development.

Conditions

9. In allowing the appeal I am granting a new planning permission which is separate from the original permission. As the side extension appeared complete at the time of my site visit, it is not necessary for me to re-impose the time limit condition. However, I am not aware of whether the single storey extension on the rear elevation has been carried out as per the approval. It is therefore necessary for the avoidance of doubt and in the interests of proper planning and in the interests of safeguarding the character and appearance of the dwelling to re-impose conditions requiring the development to be completed in accordance with the approved plans and in matching materials.

Conclusion

10. For the reasons given above, and taking all other matters into consideration, I conclude that the appeal should succeed.

Richard S Jones

Inspector