

Appeal Decision

Site visit made on 4 January 2017

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

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

Decision date: 13th January 2017

Appeal Ref: APP/P2114/W/16/3159822

Top Flat, Former Builders Yard, Dudley Road, Ventnor PO38 1EH

- 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 J Kerr against the decision of the Isle of Wight Council.
 - The application Ref P/00879/16, dated 23 June 2016, was refused by notice dated 8 August 2016.
 - The application sought planning permission for demolition of stores; proposed two storey building to provide two flats; parking (revised scheme) without complying with a condition attached to planning permission Ref P/01420/12, dated 16 November 2012.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbered below: 28-2011; 28-2011.1 Rev A; 28-2011.2 Rev B.
 - The reason given for the condition is: For the avoidance of doubt and to ensure the satisfactory implementation of the development in accordance with the aims of policies SP5 (Environment), DM2 (Design Quality for New Development) and DM11 (Historic and Built Environment) of the Island Plan Core Strategy.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I note that the appeal development has taken place already. However, I am determining this appeal on the basis of the appeal plans before me.
3. An obscured glazed first floor window to the main living room, on the side elevation of the appeal property, was approved as a non-material amendment to planning permission P/01420/12 on 22 April 2016. This appeal seeks to use clear instead of obscure glazing in that window.
4. I was unable to access the top floor flat on my site visit. However, standing on the wall of the appeal site, I was able to appreciate the views that would be afforded from it, sufficient to determine this appeal.

Main Issue

5. The effect of the appeal proposal on the living conditions of the occupiers of 15 Dudley Road, with regard to privacy.

Reasons

6. The appeal site includes a two storey recently built property which accommodates two flats. The appeal development relates to the provision of a clear glazed window in the side elevation of the first floor flat.
7. The appeal proposal would result in a clear glazed window close to the private garden to 15 Dudley Road. That garden is small and includes a small sitting out area. Whilst the proposed window would not provide harmful views into internal rooms of No. 15, it would provide uninterrupted close range views of the side garden. It would also result in a perception of being overlooked for those using that garden. As the proposed window would be at a high level, the fence along No. 15's rear boundary near to its garage would not significantly reduce views from the proposed window into the private areas of that garden.
8. In coming to this conclusion, I have noted that the occupiers of the appeal flat would be likely to arrange the main living room to take advantage of views from the large bay window and that the present occupiers have a blind on that window. I have also taken account of the advantages for the occupiers of the appeal flat, in terms of affording a view of the sea and reducing the effect of obscure glazing. However, that living room has other windows which allow light into the room and afford pleasant views. In any event, such benefits do not outweigh the harm that I have identified.
9. I appreciate that some overlooking is common place in the locality and that some areas of the private garden to No. 15 are overlooked at present. However, this appeal proposal would harmfully worsen that situation. I also note that the proposed clear glazed window would be small and not a primary viewpoint within the room that it would serve. I note that the sitting out area to No. 15 may have limited use, but this does not alter my conclusion that whatever its use as garden area, the privacy of its occupants would be harmfully affected by the appeal. I have also noted that No. 15 has a front south facing garden, but as that is also small, it does not overcome the harmful impact of the appeal proposal. That the side garden to No. 15 has been recently extended nearer the appeal property does not affect views afforded into other parts of that garden, particularly the sitting out area close to that dwelling.
10. A planning condition to ensure the provision and use of a blind on the appeal window would be very difficult to enforce and would not therefore overcome my concern.
11. I conclude that the appeal proposal would adversely affect the living conditions of the occupiers of 15 Dudley Road, with regard to privacy. It would therefore be contrary to the Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document (2012) Policy DM2. That policy supports high quality and inclusive design that optimises the potential of the site but has regard to existing constraints.

Other Matters

12. The appeal site is included in the Ventnor Conservation Area. As the appeal proposal would be traditional in size and design and is a similar window on the same elevation it would not appear out of place. It would therefore preserve the character and appearance of the Ventnor Conservation Area.

Conclusion

13. For the above reasons, and taking all other matters raised into consideration, I conclude that the appeal should be dismissed.

R Barrett

INSPECTOR