

Appeal Decision

Site visit made on 8 August 2017

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 24 August 2017

Appeal Ref: APP/P2114/D/17/3176284

38 Pallance Road, Cowes, Isle of Wight PO31 8LW

- 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 & Mrs M Parr against the decision of the Isle of Wight Council.
 - The application, Ref. P/00263/17, dated 26 February 2017, was refused by notice dated 4 May 2017.
 - The development proposed is rear decking and an attic room.
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Decision

1. The appeal is allowed and planning permission is granted for a rear decking and an attic room at 38 Pallance Road, Cowes, Isle of Wight in accordance with the terms of the application, Ref. P/00263/17, dated 26 February 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision;
 - 2) The development shall be carried out in accordance with the following approved plans: Drawing Series M30: Plan Nos. 01; 02; 03; 04; 05; 08;
 - 3) Prior to their first use the the attic room balcony and decking shall be fitted with side screens of opaque glazing in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Main Issue

2. The main issue is the effect of the proposal on the living conditions for adjoining occupiers as regards privacy.

Reasons

3. I saw on my visit that the appeal scheme involves decking at a level higher than the surrounding ground and also a balcony in a proposed attic roof conversion. Because of the practical difficulty of replicating the proposed vantage points during my inspection, my assessment of the effect on the overlooking and therefore privacy of the neighbours on both sides has in this case to be made on the basis of probability rather than certainty.
 4. On this basis I can understand the Council's concern because there is little doubt that there would be at least some views of the rear gardens of Nos. 36 to the right in the outlook from No. 38, and No. 40 to the left. However, in the case of No. 40 the appellants' garage would effectively prevent views from the
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decking into the rear garden. Moreover, whilst the proposed balcony would permit some views into this garden over the garage roof, the combination of this roof and the greater distance from the balcony to the boundary would have a mitigating effect on the sight line and any perception of being overlooked.

5. The impact on No. 36 is different because the boundary between the two dwellings is closer to the proposed balcony and decking and there is no outbuilding in the garden of No. 38 to assist in reducing the views. However, there is also a significant mitigating factor in this case arising from the fact that the rear elevation of No. 36 is set well forward of the rear wall of No. 38.
6. This leaves a large area of the garden of No. 36, and arguably because of its greater proximity to the dwelling more used for amenity purposes, out of sight from the decking and balcony. This area is also partially screened by the large outbuilding and attached greenhouse in the garden of No. 36. The effect of this layout would be to restrict views of No. 36 to only the bottom section of its garden, which I also saw on my visit has a wide selection of mature trees and bushes to assist with privacy.
7. There is a further factor in this case. As the Council will be aware, the protection of living conditions including privacy is a planning matter that does not entirely depend on the opinions of existing occupiers of neighbouring properties to a development. This is because it is in the public interest that the amenity of all future occupiers is safeguarded.
8. However with that said, there are no formal objections to the appeal proposals from the occupiers of either No. 36 or No. 40 and I have no reason to disbelieve the appellants' grounds of appeal that both sets of neighbours are happy with the proposed scheme. This is a material consideration in a case where I have already indicated that my Decision has to be made on the basis of probability rather than certainty. Moreover, any potential future occupiers of either Nos 36 or 40 would be able to see the balcony and decking for themselves before deciding whether to move to Pallance Road.
9. Overall, I conclude that there would not be an unacceptable effect on the living conditions for adjoining occupiers as regards privacy in conflict with either Policy DM2 of the Island Plan (the Isle of Wight Core Strategy) 2010 or the fourth core planning principle in paragraph 17 of the National Planning Policy Framework 2012. I shall therefore allow the appeal.
10. In considering conditions, I note that the Council's view is that obscure screens would do little to maintain the privacy of the neighbours. However, I consider that if fitted to all or some of the sides of the balcony and decking, they would in fact somewhat reduce the actual and / or perceived overlooking. I will word the condition in general terms so that if the Council accepts a submission by the appellants that a particular screen is unnecessary, the approved details can exclude its erection. Finally, a condition requiring the development to be carried out in accordance with the approved plans will avoid uncertainty as to the precise form of the development permitted.

Martin Andrews

INSPECTOR