



Appeal Decision

Site visit made on 24 October 2017

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 3rd November 2017

Appeal Ref: APP/K1128/W/17/3180061

Cartref, Kiln Lane, Stokenham, Kingsbridge TQ7 2SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Kate Hollingworth against the decision of South Hams District Council.
 - The application Ref 0525/17/HHO, dated 17 February 2017, was approved on 9 May 2017 and planning permission was granted subject to conditions.
 - The development permitted is a new garage and to change Juliet balcony to balcony by adding glazed balustrading around existing flat roof.
 - The condition in dispute is No 3 which states that: *"Notwithstanding the details submitted as part of this application, before the first floor balcony hereby approved is first brought into use, details of a 1.8 meter (sic) privacy screen to be erected along the east side (facing the neighbouring property to the east of the site) of the balcony shall be submitted to and agreed in writing by the Local Planning Authority. Details shall include the materials and extent of the screening. The privacy screen(s) shall thereafter be installed in accordance with the agreed details before the balcony is first brought into use and shall thereafter be retained in perpetuity."*
 - The reason given for the condition is: *"To safeguard neighbour privacy."*
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Decision

1. The appeal is allowed and the planning permission Ref 0525/17/HHO for a new garage and to change Juliet balcony to balcony by adding glazed balustrading around existing flat roof at Cartref, Kiln Lane, Stokenham, Kingsbridge TQ7 2SQ granted on 9 May 2017 by South Hams District Council, is varied by deleting condition 3.

Main Issue

2. The main issue is whether or not the condition is necessary in order to safeguard the living conditions of the neighbours.

Reasons

3. The appeal property is a chalet bungalow which has a small ground floor extension to the front with a flat roof. Above this there is a dormer, part of which has glazed doors that open onto the flat roof. The planning permission granted by the Council authorises the enclosure of the flat roof area by glazed balustrading to form a balcony. Condition 3 requires provision of a privacy screen along the eastern side of the balcony in order to prevent overlooking of the neighbouring property ('Avalon').
4. The appeal property is at a higher level than Avalon and the approved balcony without the required privacy screen in place would afford views over the

neighbour's garden. The neighbouring dwelling is angled away from the appeal property so that views towards that dwelling would be limited. The balcony would be set in from the boundary of the appeal property and the part of the neighbour's garden that would be seen from the balcony is some distance away. The part of the neighbour's garden nearest the appeal property is used for car parking. In addition there is a boundary fence of about 1.8 metres in height and a shed together with planting within the neighbour's garden which together provide some degree of privacy. Given that only part of the neighbour's garden would be seen from the balcony I find that any overlooking of that garden would be within acceptable limits such as one would expect in a residential area.

5. In coming to this view I have taken into account the generally good levels of privacy in the area. The dwellings are generally detached with a predominance of bungalows which are within enclosed gardens. However there are two storey dwellings in the area and the topography is varied and these factors mean that there is scope for views across neighbouring gardens.
6. I also saw that a number of other neighbouring dwellings and their gardens are similar distances away from the proposed balcony as Avalon. These include the adjacent dwelling to the south-west and the frontage dwellings on Kiln Lane. For similar reasons as those given above the use of the balcony would not result in unacceptable overlooking of those properties. Because the garden of Avalon would not be overlooked to any significantly greater extent than the other surrounding properties I see no need for a privacy screen on the eastern side of the balcony.
7. I conclude that the condition is not necessary in order to safeguard the living conditions of the neighbours. The proposal would accord with policy DP3 of the South Hams Development Policies (2010) which requires that there is no unacceptable impact on neighbours' living conditions.

Conclusion

8. For the reasons given I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR