



Appeal Decision

Site visit made on 2 July 2019 by Scott Britnell MSc FdA

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2019

Appeal Ref: APP/R3325/D/19/3227341

The Heights, High Ham, Langport, Somerset, TA10 9DA

- 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 Mrs Lauren Keates against the decision of South Somerset District Council.
 - The application Ref 18/02285/FUL, dated 1 June 2018, was refused by notice dated 12 February 2019.
 - The development proposed is described as "Levelling of Rear Garden, Swimming Pool and Pool Outbuilding, Upgrade of Windows, Doors & External Paintwork, Terraces on Single Storey Extension".
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Decision

1. The appeal is allowed, and planning permission is granted for the carrying out of alterations and engineering works to level rear gardens, and formation of a roof terrace at The Heights, High Ham, Langport, Somerset, TA10 9DA, in accordance with the terms of application Ref 18/02285/FUL, dated 1 June 2018 and subject to the 3 conditions set out on the attached Schedule.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. During the course of the planning application the description of development was amended to reflect the proposed development that required planning permission. I have considered the proposal on the same basis as the Council as "the carrying out of alterations and engineering works to level rear gardens, and formation of a roof terrace". I have however not used the reference to "Part Retrospective" as this is not an act of development.
4. Within its refusal reason the Council refers to "policy EQ2 of the South Somerset Local Plan 2006". It is however clear from the plan's front cover that the correct name of it is the South Somerset Local Plan (2006 – 2028) (LP). I have considered the appeal on this basis.

Main Issue

5. It is clear that the Council considers that most of the proposal is acceptable and that its concern relates to the effect of the privacy screens on neighbouring occupiers.
6. The main issue in this case is the effect of the privacy screens on the living conditions of the occupants of the property at Uplands, with particular regard to outlook and light.

Reasons for the Recommendation

7. The appeal site comprises a detached dwelling occupying a commanding view of surrounding countryside on the east side of Ham Hill. There are two detached dwellings to the north of the appeal site and two linked detached properties with a further detached dwelling to the south, each benefitting from generous sized garden areas. The front of the appeal dwelling sits further forward in its plot than the two adjacent properties. As such, its rear elevation is stepped back from the rear elevations of those dwellings, although its single storey rear extension projects beyond both. The Council has confirmed that the extension benefits from Permitted Development and so does not form part of my considerations of the appeal proposal.
8. The proposed privacy screens would be set in from either side of the extension on top of which they would be erected and would project beyond the metal balustrade which runs across the roof. The privacy screens were partially erected, and the balustrade was in place, at the time of my visit.
9. The privacy screen furthest away from the property at Uplands would, due to the level of separation and scale of the proposals, have no impact on the living conditions for the occupants of that property.
10. The privacy screen closest to Uplands would be set in off the edge of the extension and would not project beyond the two-storey rear wall of that dwelling by any significant degree, if at all. It would be of a modest height and whilst it would be visible from the side window in Uplands, I am satisfied that it would not be unduly harmful to the outlook from this window given its design and relationship to this feature. Moreover, being located to the north of Uplands, it is unlikely that the privacy screen would result in a loss of light to this window to a level that would make this room less pleasant to use.
11. Moreover, the single storey extension to the rear of Uplands would largely screen the visual impact of the privacy screens when viewed from the rear garden to this property and as a result they would be unlikely to affect the enjoyment of this outdoor space.
12. Given my findings above and having regard to the scale of the privacy screens and their orientation to Uplands, I conclude that the proposal would not have an adverse impact on the outlook from this property, nor would they result in a sense of enclosure or loss of light the property or its garden area. Harm to the occupants of Uplands living conditions would not result.
13. Although not referred to by the Council in its decision notice a number of concerns have been raised that the use of the roof terrace would lead to increased noise levels and disturbance. The proposal is for a roof terrace to an existing dwelling house and there is no evidence before me to suggest that the

proposal would result in an increase in noise levels over the current situation. This issue is not a determining factor in this case.

14. Concerns have also been raised that the use of the roof terrace would lead to a loss of privacy for the occupants of neighbouring and nearby dwellings. During the application process the depth of the privacy screens was extended to address these concerns. I am satisfied that the proposals before me would provide adequate screening to ensure that the privacy for occupants of neighbouring and nearby dwellings would be safeguarded. While some views may be available from the roof terrace towards the far end of neighbouring gardens, these would replicate those afforded from the existing first floor windows. Further, due to the topography of the area there is already a degree of mutual overlooking between properties in this location.
15. The impact of the proposal on the character and appearance of the area has also been raised, although this is not referred to by the Council in its decision notice. Due to the scale, location and form of the proposal, I do not consider that any harm would occur in this regard.
16. In light of my findings I conclude that the proposal would not result in harm to the living conditions of nearby occupiers, including those at Uplands. There would be no conflict with Policy EQ2 of the LP or the National Planning Policy Framework which together seek, among other things, to protect the living conditions for occupants of neighbouring and nearby properties from the potentially harmful effects of development.

Other Matters

17. In respect of the works undertaken to the rear garden, these have been carried out, according to the appellant, to provide a terrace of flat areas where previously this space would have been sloping. Concerns have been expressed about land stability and that these works are out of character for the area. With regards to land stability issues, it is noteworthy that the Council consider that there is no reason to assume that there would be any issues as a result of these works. Further, there is no evidence before me to substantiate such concerns. In terms of the character of the area the proposals are clearly read in connection with the dwelling and are of an appropriately domestic scale. They have not resulted in harm to the character and appearance of the area.
18. Concerns are raised in respect of the swimming pool outbuilding, drainage related to this building and noise associated with its use. The Council has confirmed that these works benefit from Permitted Development and so do not form part of the proposals before me. The Council has also confirmed that lighting associated with the proposals does not require planning permission and there is no evidence before me to suggest that this is not the case. This aspect of the proposal does not form part of my consideration of the appeal proposal.
19. I note that the Council refer to the provision of steps and a raised platform to the rear of the new single storey extension as works that require planning permission. However, these aspects are not referred to within the Council's description of development and so do not form part of my consideration of the appeal proposal.
20. I also note the concerns raised that the proposal would establish a precedence. However, a generalised concern of this nature does not lead me to conclude

differently in this case. All planning proposals are considered on their own merits.

21. Other issues have been raised which do not fall to me to consider, including the potential devaluation in the market value of neighbouring properties. Planning Practice Guidance issued by Government states that planning is concerned with land use in the public interest, so that the protection of purely personal interests such as the impact of a development on the value of a neighbouring property is not a material planning consideration.
22. Concerns have also been expressed about the impact of the proposal on views afforded from neighbouring properties. However, the planning system does not offer any protection to private views and so this is not a matter that I can consider. Additional objections have been made regarding the retrospective nature of the application, the days on which construction took place, parking issues associated with the build and damage to the pavement. These are not matters that fall to me to consider as part of the appeal proposal.

Conditions and Recommendation

23. The Council has suggested a number of conditions it would wish to see imposed in the event that the appeal is allowed. A condition is necessary to ensure that the development is carried out in accordance with the approved drawings. The second condition would require the privacy screens to be constructed prior to the roof terrace being first brought into use. At the time of the appeal site visit, the screens were partially constructed, and the metal balustrade was in place. Therefore, the roof terrace may already be in use. In addition, although the drawings appear to show the privacy panels to be of solid construction, this is not sufficiently clear. Consequently, I shall attach a condition requiring further details of the privacy screens to be approved and implemented to ensure that adequate privacy for the occupants of neighbouring and nearby properties is preserved.
24. The flat roof of the extension is relatively large and any use of it beyond the approved terrace is likely to result in unacceptable levels of overlooking and loss of privacy. A condition is therefore also necessary to control the use of the roof terrace to protect the living conditions of nearby occupiers.
25. The Council has also requested a condition that the materials to be used in the external surfaces of the development shall match those in the existing building. I consider this to be a reasonable and necessary requirement to ensure that the privacy screens are finished in a manner that is sympathetic to the host dwelling and the character and appearance of the area. I will therefore incorporate this requirement into the condition requiring details of the privacy screens, by requiring details of their finish.
26. As work has already commenced on the proposals there is no need to attach the standard time condition in this case.
27. For the reasons given above, I conclude that the appeal should be allowed, and planning permission be granted.

Scott Britnell

APPEAL PLANNING OFFICER

Inspector's Decision

28. I have considered all the submitted evidence and the Appeals Planning Officer's report and on that basis the appeal is allowed.

R C Kirby

INSPECTOR

SCHEDULE

CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: RDS_HH_SP – Existing and Proposed Site Plans received by the Council 7 September 2018, and RDS_HH_P2 Proposed Plans (Ground and First Floor), RDS_HH-E2 Proposed Elevations (East and West Elevations), RDS_HH_E2 Proposed Elevations (North and South Elevations) received by the Council 26 October 2018.
2. Notwithstanding the approved drawings, further details of the privacy screens, including their materials and finish, shall be submitted to the Local Planning Authority within 1 month from the date of this decision. The details shall be in the form of a drawing(s) at the scale of 1:50 or 1:100. The privacy screens shall be fully constructed in accordance with the approved details within 1 month from the date of their agreement by the Local Planning Authority and shall be permanently retained as such thereafter.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), the area to be used as a roof terrace shall be limited strictly to that shown on approved plan RDS_HH_P2. No other part of the roof of the existing single storey extension shall be used as a roof terrace, or as any other area of domestic amenity space.