
Appeal Decision

Site visit made on 20 August 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2019

Appeal Ref: APP/U1105/W/19/3229728

Valley Mead, Convent Road, Sidmouth EX10 8RE

- 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 Mr & Mrs B Newell against the decision of East Devon District Council.
 - The application Ref 18/2921/FUL, dated 20 December 2018, was approved on 5 March 2019 and planning permission was granted subject to conditions.
 - The development permitted is construction of single storey extension.
 - The condition in dispute is No 3 which states that:
Before the 'Glass Room' hereby permitted is occupied, the glass panels measuring 2.35m x 0.8m and the door within the South East elevation as indicated on drawing number PL03 received on 21st December 2018 shall have been glazed with obscure glass and the obscure glazing of these openings shall thereafter be retained at all times.
 - The reason given for the condition is:
To protect the privacy of adjoining occupiers (The Gallery) in accordance with Policy D1 - Design and Local Distinctiveness of the Adopted East Devon Local Plan 2013-2031.
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Decision

1. The appeal is allowed and the planning permission Ref 18/2921/FUL for construction of single storey extension at Valley Mead, Convent Road, Sidmouth EX10 8RE granted on 5 March 2019 by East Devon District Council, is varied by deleting condition 3.

Background and Main Issue

2. Planning permission has been granted for a single storey glazed extension. The appeal seeks permission to carry out the development without complying with condition 3, which requires obscure glazing to be installed in the southeast elevation of the extension. The main issue is whether the obscure glazing is necessary to protect the living conditions of the occupants of The Gallery, with regard to privacy.

Reasons

3. Valley Mead is a substantial semi-detached house that fronts Convent Road. It has two storeys and roofspace accommodation in dormers when viewed from the road. The land falls away behind the house, so there is additional accommodation at a lower level to the rear. The large rear garden is at a considerably lower level than the house. The adjoining property, The Gallery, appears to be single-storey when viewed from Convent Road, but as a result of the slope it is two-storey at the rear. It also has a large rear garden. As a

result of the topography, there is a degree of overlooking of the respective neighbouring gardens from windows in the upper floors of both houses.

4. There is an existing sun-terrace at the rear of Valley Mead, which is accessed via two doors from the ground floor accommodation. As a result of the sloping land, it sits at a higher level than the rear gardens of the two houses and provides open views over Bickwell Valley to the southwest. The planning permission that has been granted allows for an increase in the depth of this terrace by 1.3 metres, and its enclosure with a fully glazed extension. The floor level of the terrace would be unchanged.
5. I saw that the existing terrace allows some views of the lower part of the garden of The Gallery, but the boundary fence and vegetation prevent views down onto the patio. The extension and enclosure of the terrace would not take it any closer to the property boundary, and the ability to stand a little further forward, would not significantly change the amount of garden or patio that would be visible through the proposed windows in the southeast elevation. In any event, similar views of the neighbouring garden are already obtained from within the house, through the ground-floor drawing room window, which is at a higher level. There is a first-floor window directly above the drawing room which allows more extensive views. Consequently, I conclude that the proposed extension would not result in significant additional overlooking of the garden or patio of The Gallery, and that the condition requiring obscure glazing is not therefore necessary or reasonable in this respect.
6. The Gallery has ground and first floor windows close to the boundary of the appeal site. Both are visible from the existing terrace, although the lower part of the ground floor window is largely screened by the existing boundary fence and vegetation. The first-floor window is not screened, but it can only be viewed from an acute angle. It is also mostly above eye level for a person standing on the terrace. Consequently, I saw that it was not possible to see into the rooms served by either of the windows from any point on the existing terrace.
7. In the absence of obscure glazing, the approved extension would change the angle at which these windows could potentially be viewed. However, I saw that the existing boundary vegetation would prevent such wider views from being obtained. Even without the boundary screening, however, the angle of view would not be very different, and would not allow any significant increase in the ability to see into the rooms served by the windows. The existing terrace allows users to sit on, or lean over the low boundary wall, whereas occupants of the extension would be confined by the glazed wall. Furniture within the extension would very likely be arranged to take advantage of the expansive south-westerly views. In practice, therefore, any overlooking of the neighbouring windows, from within the extension, would be from similar viewpoints that can already be obtained from the terrace.
8. The extension and enclosure of the terrace would allow it to be used more regularly, as occupancy would not be so dependent on weather conditions. Furniture within the extension would not need to be weather-resistant and could be permanently arranged, allowing occupants to sit more comfortably and for longer periods. However, I have found that, in the absence of obscure glazing, the extension would not result in any significant additional overlooking of the neighbouring windows or garden. Consequently, its use for longer

periods would not result in any harm to the living conditions of the occupants of The Gallery.

9. I therefore conclude that the disputed condition is not reasonable or necessary in the interests of protecting the living conditions of the occupants of The Gallery. The development without the disputed condition would thus comply with Policy D1 of the East Devon Local Plan 2013 to 31 (adopted 2016). This policy seeks to ensure, amongst other things, that development does not adversely affect the amenity of occupiers of adjoining residential properties.

Conclusion

10. For the reasons given above, I conclude that the appeal should be allowed. I will vary the planning permission by deleting the disputed condition.

Nick Davies

INSPECTOR