



Appeal Decision

Site visit made on 20 January 2020

by C Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2020

Appeal Ref: APP/W1145/W/19/3239042

Westward View House, Galleon Way, Westward Ho!, EX39 1UJ

- 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 George Lobb against the decision of Torridge District Council.
 - The application Ref 1/0440/2019/FUL, dated 20 May 2019, was approved on 20 August 2019 and planning permission was granted subject to conditions.
 - The development permitted is side balcony.
 - The condition in dispute is No 3 which states that: *prior to the balcony hereby permitted first being brought into use, the 1.7 metre high privacy screen on the side elevation, (facing west), as shown on drawing numbered EMA/2019/0045/0010B, shall be installed using a minimum of level 3 obscure glazing, and shall be retained as such thereafter.*
 - The reason given for the condition is: *to ensure that private amenity is retained for the adjacent neighbouring properties, in accordance with Policy DM01 of the adopted North Devon and Torridge Local Plan 2011-2031.*
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Decision

1. The appeal is allowed and planning permission Ref 1/0440/2019/FUL for a side balcony, granted on 20 May 2019 by Torridge District Council, is varied by deleting condition No 3.

Application for costs

2. An application for costs was made by Mr & Mrs George Lobb against Torridge District Council. This application is the subject of a separate Decision.

Background

3. The appeal concerns a detached house situated within the built-up area of Westward Ho!. Planning permission has been granted for a first-floor balcony, including glazed doors, on the side elevation of the house. Condition 3 of the permission requires a 1.7-metre-high obscure glazed privacy screen on the west elevation of the balcony in order to limit views of neighbouring occupiers (particularly 129 Atlantic Way). On my site visit I saw that the glazed doors had been installed but the balcony had not been constructed.

Main Issue

4. The main issue is whether condition 3 is necessary in the interests of the living conditions of neighbouring occupiers, having particular regard to privacy.

Reasons

5. The proposed balcony would serve the main living room of the appeal property. This room already has glazing in the west elevation, allowing views across the rear garden of No 129 Atlantic Way from a number of vantage points inside the room. Hence, to a certain extent, the neighbouring garden is already overlooked from a regularly occupied part of the appeal property.
6. In the absence of a privacy screen, views from the balcony would be similar to those already obtained within the living room. Although the balcony would be positioned closer to the boundary of No 129 and elevated above ground level, views across the neighbouring garden would be at a relatively low height. From a seated position on the patio, the existing boundary fencing and vegetation would partially screen the neighbouring garden. However, even if they were removed, the balcony would not substantially increase the level of mutual overlooking that already exists from within the living room.
7. Without a privacy screen, users of the balcony could look back towards the rear windows of No 129 when either standing or sitting. However, it would not be particularly easy to look inside No 129, or indeed other neighbouring properties, due to the separation distances involved. In any case, the situation would be little different from the views of other properties already obtainable from within the main living room of the appeal property.
8. Furthermore, the neighbouring garden forms one component of a much wider outlook that includes other neighbouring dwellings and open views towards the coast. Hence, there is little reason to assume that users of the balcony would necessarily focus attention on the garden of No 129.
9. For the reasons given above, I conclude that condition 3 is unnecessary in the interests of the living conditions of neighbouring occupiers. The planning permission is therefore varied by the removal of this condition.

C Cresswell

INSPECTOR