



Appeal Decision

Site visit made on 13 July 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2020

Appeal Ref: APP/B1740/W/20/3252126

6 Harford Close, Pennington SO41 8EX

- 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 Graham Boyt against the decision of New Forest District Council.
 - The application Ref 20/10164, dated 13 February 2020, was approved on 9 April 2020 and planning permission was granted subject to conditions.
 - The development permitted is a single storey rear extension, first floor extension over new garage/carport, extend rear dormer, pitched roof to front dormers and pitched roof porch.
 - The condition in dispute is No 3 which states that: *'The first floor windows on the rear (west) elevation of the approved dormer shall be (i) obscurely glazed, and (ii) non-opening at all times unless the parts that can be opened are more than 1.7m above the floor. The aforementioned windows should be fitted with obscure glass and not an applied film, and retained as such in perpetuity.'*
 - The reason given for the condition is: *'To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).'*
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Graham Boyt against New Forest District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Since the Council's decision, it has adopted a New Forest District Local Plan Part 1: Planning Strategy, July 2020 (the LPP1). The New Forest Core Strategy, October 2009, Policy CS2 (design quality) is replaced by LPP1 Policy ENV3 (design quality and local distinctiveness). Both main parties have had the opportunity to comment on LPP1 Policy ENV3 and I have dealt with the appeal on this basis.

Background and Main Issue

4. Planning permission was granted for alteration and extension of the appeal property, including a bedroom at first floor level with a dormer window in the rear elevation. This window is to be obscurely glazed and the lower part non-openable. The appellant seeks to modify the wording of condition No 3 so that this window can be clear glazed and fully openable. The requirements of

condition No 3 would otherwise continue to apply to the other three proposed first floor rear windows.

5. The main issue is the effect that modifying condition No 3 would have on the living conditions of the occupiers of No 1 Alison Court, having particular regard to privacy.

Reasons

6. The appeal property is a detached chalet bungalow within an estate of similar bungalows. The appeal proposal would allow views out of the proposed first floor rear bedroom dormer window, towards the rear elevation and garden of the detached bungalow at No 1 Alison Court which is opposite. The common rear garden boundary is a conventional timber close boarded fence and, on the No 1 Alison Court side, a tall hedge extends above the fence, including taller shrubs or small trees at either corner end.
7. At my site visit I saw that construction work at the appeal property was substantially advanced, including a new first floor level with the size and position of the aperture for the proposed bedroom window in situ. From this position I could not see into any rooms or into any part of the garden of No 1 Alison Court due to the screening effect of the hedge. I also saw that the appeal property garden outbuilding is quite low and off-set to one side, so consequently has little or no influence on these views.
8. I acknowledge that there is a reasonable separation distance between the main rear elevations of the appeal property and No 1 Alison Court. I also appreciate that the hedge already exists, that it is in the control of the occupiers and/or owner of No 1 Alison Court, that some or all of it may be evergreen species and it may have been maintained at the existing or a similar height for some time. However, both rear gardens are relatively short and the proposed bedroom window would therefore be in an elevated position relatively close to this boundary. In addition, and irrespective of the original bathroom having a fully openable window, the proposed bedroom window would be for a habitable room, whereas the bathroom was not a habitable room.
9. Moreover, the appellant seeks to rely on the status quo of the hedge being maintained, including at its present height, in order to safeguard the living conditions of the occupiers of No 1 Alison Court. Whereas, LPP1 Policy ENV3 states that '*new development*' will be required to avoid unacceptable adverse impact on residential amenity, including overlooking — in this case, via condition No 3 which provides suitable and appropriate mitigation and is within the appellant's control.
10. There is therefore a realistic prospect that, without obscure glazing and with a fully opening window, the appeal proposal would result in direct views into ground floor habitable rooms of No 1 Alison Court and into a large part of its rear garden. Accordingly, I am satisfied that condition No 3 is necessary, precise and relevant to planning and to the development permitted by the Council. It is also enforceable and reasonable in the interest of the living conditions of the occupiers of No 1 Alison Court.
11. The alteration sought to the proposed bedroom window (to be clear glazed and fully openable) would harm the living conditions of the occupiers of No 1 Alison Court, having particular regard to privacy. It would not accord with LPP1 Policy

ENV3 and would conflict with the National Planning Policy Framework paragraphs 8(b) and 127(f) which include that development should foster health and well-being and ensure a high standard of amenity for existing occupiers.

Other Matters

12. I have had due regard to the health of one of the occupiers of the appeal property, as this has been explained in the appeal documents. I also acknowledge that appropriate adaptation of accommodation to meet the changing needs of occupiers over time is a benefit of the proposal. However, this matter does not lessen, outweigh or overcome the significant harm that I have identified in the main issue above.
13. The appellant also intends that if it were fully openable, the proposed rear bedroom window would provide an alternative means of emergency escape; whereas, the Council considers that the front window of this bedroom could achieve this and that condition No 3 is not a barrier to Building Regulations approval. However, there is no evidence before me to substantiate that the proposed rear window would be the only satisfactory alternative means of escape, but even if it were, it would not alter my finding in the main issue above with regard to loss of privacy.
14. Furthermore, obscure glazing would nonetheless allow some daylight to enter this bedroom and a top opening window would allow some ventilation; moreover, there would be another main window to this bedroom in the front elevation which is not subject to condition No 3 (ie it could be clear glazed and fully openable). This window would therefore provide good outlook as well as additional daylight and ventilation, including a cross flow through the room.
15. I acknowledge that some other bungalows in the immediate vicinity have rear extensions, including dormer windows. I do not have full details of the specific sites referred to by the appellant that are suggested set a precedent for the appeal proposal but, in any event, I have determined this appeal on its planning merits.

Conclusion

16. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR