

---

## Appeal Decision

Site visit made on 22 September 2020

**by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 October 2020**

---

**Appeal Ref: APP/P2114/D/20/3244304**

**36 Park Road, Cowes PO31 7LT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
  - The appeal is made by Mr T Wood against the decision of Isle of Wight Council.
  - The application Ref 19/00892/HOU, dated 29 August 2019, was refused by notice dated 21 October 2019.
  - The development proposed is a raised patio area and ramped access.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The development for which planning permission was sought has already been undertaken. Whilst this has helped to inform my assessment, I have based my decision on the plans submitted.
3. The description of development in the banner heading above is an edited version of that provided on the planning application form, with the phrase 'retrospective application for retention of' removed. This is because the latter does not describe an act of development.
4. The appellant states that raising the level of a large proportion of the patio, albeit not including the section adjacent to the boundary, does not require planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Act. It is however open to the appellant to have the matter determined under sections 191 or 191 of the Act. Any such application would be unaffected by my decision above.

### Main Issue

5. The main issue is the effect of the development on the living conditions of occupants of 34 Park Road with regard to privacy.

### Reasons

6. No 36 and No 34 neighbour one another, and are separated by a narrow gap. Ground levels fall across the plots, meaning that No 36 stands at a much higher level than No 34. Thus viewed from the rear, the first floor windows of No 34 are positioned at a level which is not substantially above that of the ground floor windows of No 36. The first floor bedroom window of No 36 which lies around 1m from the boundary therefore has a very high level of exposure to the garden of No 34.

7. It is apparent from photos submitted with the appeal, and from areas of the garden in which ground levels appear to remain unchanged, that the exposure of this window was significant even before the development took place. It is equally apparent however, that the level of exposure has become much more pronounced as a result of the development. Whilst it may therefore have been possible for someone standing to the rear of No 36 to see into this window previously, the raised levels introduced as a result of the development now allow for far easier and more direct views into the bedroom than were available before. This is particularly true when standing or passing close to the boundary, where levels have been raised by up to 700mm, or around 2' 3".
8. Views into the garden of No 34 itself are less easy given the significant difference in ground levels, and the narrow width of the neighbouring garden. The increased ability to see into the bedroom window nonetheless had an adverse impact on the privacy of the occupants of No 34.
9. The appellant's proposed solution would be to introduce a screen provided by climbing plants, grown in containers, and supported on wires. This screen would be positioned along the section of the boundary adjacent to the window.
10. A screen of this type would take time to establish as the plants grew, and the end result would be uncertain. The screen would not be solid, and so views through it might still be possible. The screen would furthermore require continual maintenance, which might prove impractical from the side of the screen facing No 34, given its considerable height above the ground level of the neighbouring garden.
11. Indeed, the screen would extend the height of the boundary between Nos 36 and 34 to just below the eaves level of No 34. In view of the orientation of the plots, and the extent of increased overbearing of the garden of No 34 by the boundary, it is likely that a moderately adverse effect arise in respect of increased shading. The effects would be worse if a solid screen was installed instead.
12. The plants could be spaced out, thus reducing any obstruction of light. But spacing would further undermine the effectiveness of the screen in blocking views. It would also increase maintenance requirements. For these and the above reasons the proposed screen would not adequately or appropriately mitigate the loss of privacy.
13. The appellant notes that trees or a hedge could be grown along the boundary without planning permission. However, given that no scope for planting of trees or a hedge either exists, or appears to have existed previously, I attach little weight to this consideration.
14. I have also taken into account the fact that overlooking of the garden of No 36 from the bedroom window of No 34 adversely impacts on the privacy of the occupants of No 36 itself. However, as the impact has again been made worse by the development, the fact that No 34 overlooks No 36 does not alter my findings above.
15. For the reasons outlined above I conclude that the development has an unacceptable effect on the living conditions of occupants at No 34 due to the increased erosion of privacy that it has caused. The development therefore conflicts with Policy DM2 of the Island Plan: Isle of Wight Core Strategy, which,

though not specifically outlining requirements in relation to living conditions, nevertheless broadly seeks to secure high quality design.

### **Other Matters**

16. The appellant states that the development was required in order to enable visitors to the property who use wheelchairs to gain easier access. In this regard my attention has been drawn to a range of local and national policies and guidance relating to the provision of accessible development.
17. In view of the above, and the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have had due regard under Section 149 of the EA 2010 to the requirement to take steps to meet the needs of persons who share a protected characteristic. Disability is one such characteristic.
18. The development seeks to meet the needs of wheelchair users by providing a ramped access from the driveway to the rear of the property, from which level access into the dwelling can then be gained by crossing the adjoining patio. This avoids the stepped access up to the front door.
19. The ramp however lacks guarding from drops to either side. No guarding has been proposed, and there appears to be little scope for it to be added. Given the reasonably narrow width of the ramp, its use in the absence of guarding would be hazardous. Turning space at the top of the ramp is also inadequate, particularly when taking into account the obstruction that would be caused by the proposed screen. As such, the ramp appears to be neither safe nor fit for its intended purpose. Moreover, I have been provided with no evidence that access to the dwelling could not be achieved in a more sensitive way. To this end it appears that a reasonably level access could be formed directly into the dwelling from the opposite end of the driveway, where ground levels are much higher than they are adjacent to the front door.
20. Dismissal of the appeal might lead to the Council taking action to remove the development. However, I am not convinced that this would adversely impact upon, or fail to meet the needs of a person sharing a protected characteristic. This is because the works themselves do not properly or safely cater for these needs. Consequently, I attach little weight to this consideration.

### **Conclusion**

21. For the reasons set out above I conclude that the appeal should be dismissed.

*Benjamin Webb*

INSPECTOR