



Appeal Decision

Site visit made on 15 September 2020

by C J Ford BA (Hons) BTP MRTPI

a person appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/P1235/D/20/3247226

17 Weare Close, Portland, Dorset DT5 1JP

- 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 Mr Chris Harrison against the decision of Dorset Council.
 - The application Ref WP/19/00659/FUL, dated 6 August 2019, was refused by notice dated 13 January 2020.
 - The development proposed is erect raised decking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of raised decking at 17 Weare Close, Portland, Dorset DT5 1JP in accordance with the terms of the application Ref: WP/19/00659/FUL, dated 6 August 2019 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be in accordance with the following approved plan; 2904001 Rev B.
 - 3) Prior to the first use of the raised decking hereby permitted, the north western boundary wall as detailed on the approved plan shall have been raised to a height of 1.8m from the ground level along the entire length of the boundary and retained as such thereafter.
 - 4) Prior to the first use of the raised decking hereby permitted, the glass balustrade as detailed on the approved plan shall have been erected to a height of 1.1m from the floor level of the decking. The glass shall be obscured to a minimum level three obscurity and shall be retained as such thereafter.

Procedural Matters

2. The submitted existing plans show a raised walkway and steps wrapping around the lower ground floor rear extension. In the interests of clarity, these features did not exist at the time of the appeal site visit.
3. When the Council's Officer visited the site the rear boundary wall was approximately 1.5m high. At the time of the appeal site visit it was approximately 0.65m high. As it cannot be assumed the appellant will restore the wall to its former height notwithstanding the outcome of the appeal, the

proposal must be considered having regard to the existing situation with the wall at its current height.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers with particular reference to privacy.

Reasons

5. Owing to the steeply rising nature of the land, the rear habitable accommodation of the appeal property already severely overlooks the rear elevations and rear garden areas of the properties on Killicks Hill to the north. The Council's main concern in respect of the proposed raised decking is a perceived intensification of the existing overlooking towards and into the windows of 22 and 24 Killicks Hill, at a closer distance.
6. The rear amenity space at the appeal property is currently laid out with a raised patio area approximately 1.5m deep running across the main rear wall of the house and steps on the western side which lead up to the front of the dwelling. A greater proportion of the amenity space is provided at a lower level which spreads beyond the end of the recent rear extension.
7. In light of the low height of the rear boundary wall, views down into the rear garden areas and across to the rear elevations of the houses on Killicks Hill may be obtained from the lower outdoor amenity area, including when stood directly alongside the common boundary.
8. In the proposed scheme, the raised decking area would occupy a large part of the garden apart from a shallow walkway along the rear boundary and an area in the western corner of the site. It would effectively be an enlargement of the existing raised patio area.
9. The raised decking would be set back by around 1.2m from the rear boundary and the existing views from the residual lower amenity area towards the properties on Killicks Hill would largely be contained by the boundary wall which would be increased in height to 1.8m. The increased height of the boundary wall would also partially restrict views down into the rear garden areas from the raised decking area. Although it would not restrict views of the rear elevations, the views obtained would be around 1.2m further back than are currently possible. The raised boundary wall would also restrict views of the garden areas from the lower ground floor habitable accommodation in the main part of the appeal property. The proposed glass balustrade would further assist in addressing arising and existing overlooking, providing it comprises of obscure glazing.
10. As the boundary with 16 Weare Close is generally of an open nature, the raised decking would not lead to a harmful loss of privacy for the occupiers of that property. Indeed, the obscure glazing of the balustrade would provide some screening.
11. Due to the close relationship of the properties to each other and the topography, the proposal would not materially degrade the privacy of neighbouring occupiers. Indeed, the proposed scheme would result in improved privacy for the occupiers of neighbouring properties over the existing situation. As this is dependent on the rear boundary wall being 1.8m in height and the

obscure glazing of the balustrade, conditions are imposed which require their provision and retention. The standard time limit condition is also imposed, as is a condition specifying the approved plan to ensure certainty.

12. Accordingly, it is concluded the proposed development would not have an unacceptably harmful effect on the living conditions of neighbouring occupiers with particular reference to privacy. It would therefore not conflict with Policy ENV16 of the 2015 West Dorset, Weymouth and Portland Local Plan which seeks to ensure development does not have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy. It would also not conflict with the National Planning Policy Framework which seeks a high standard of amenity.
13. Representations were made to the effect that the rights of the neighbouring occupiers to respect for private and family life, under Article 8 of the Human Rights Act 1998, would be violated if the appeal were allowed. This argument is not considered to be well-founded given it has been found the proposed development would not cause unacceptable harm to the living conditions of the neighbouring residents. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 8.

Conclusion

14. For the reasons given above and having regard to all other matters raised, it is concluded the appeal should be allowed.

C J Ford

PLANNING DECISION OFFICER