



Appeal Decision

Site visit made on 26 November 2020

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020

Appeal Ref: APP/C3810/D/20/3256727

140 London Road, Bognor Regis, PO21 1BD

- 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 Ms Alex Baxter against the decision of Arun District Council.
 - The application Ref BR/75/20/HH, dated the 13 March 2020, was refused by notice dated the 10 June 2020.
 - The development proposed is conversion of roofspace to habitable use to include rear dormer and terrace, with front and side rooflights.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted to the Council a revised plan showing an increase, from 1.1 metres to 1.8 metres, in the height of the screening to the western elevation of the proposed terrace. This revised plan was submitted just prior to the determination of the application. However, the Council proceeded to determine the application on the basis of the original plan, which showed a screen of 1.1 metres. The latter is clear from the analysis set out in the Council's Delegated Report.
3. I note that the email from the appellant that accompanied the revised plan, dated 3 June 2020, did not formally request that the plan be substituted, but instead sought the Council's feedback on the acceptability of a higher screen. Even so, whilst any further concerns over the way in which this revised plan was dealt with is a matter that should be taken up directly with the Council, it is clear that the Council's decision was based on the original plan showing a screen of 1.1 metres.
4. The Council's Delegated Report refers to a number of objections having been received from local residents, raising, amongst others, concerns over the overlooking that the proposal would give rise to. None of these local residents have been formally consulted on the revised plan. In view of this and in applying the 'Wheatcroft Principles' (*Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]), the interests of these interested parties would be prejudiced were I minded to accept this revised plan. I have therefore determined the appeal on the basis of the plan ('Proposed Plans & Elevations') referred to in the Council's Delegated Report and decision notice, which shows a screen of 1.1 metres on the western elevation of the proposed terrace.

5. The description of the proposed development on the application form is different to that in the Council's decision notice. I have adopted the latter as it more accurately describes the development.

Main Issue

6. The main issue is the effect of the proposed rear terrace on the living conditions of the neighbouring occupiers with particular regard to overlooking.

Reasons

7. The proposed terrace would extend just over 1 metre beyond the roofline and main rear wall of the host property. The sides (facing north and south) of the proposed terrace would include a 1.8 metre high screen of obscure glass. On the front (facing west), the proposed screen, again comprising obscure glass, would be 1.1 metres high.
8. The front of the proposed terrace faces onto the rear elevations and the rear gardens of the properties in Spencer Street. The garden to the appeal site and to the properties in Spencer Street are relatively short. As a consequence and as I observed on site, there is already a certain level of overlooking, but this is existing and is an inherent characteristic of built up urban areas such as this.
9. Whilst there is some landscape screening, particularly on the rear and side boundaries of the garden to the appeal site with its neighbours, which assists in mitigating views from the existing first floor windows of the host property, the views generated by the proposed terrace would be at a much higher level and much closer due to the projection of the proposed terrace beyond the rear main wall. These views would be of the private gardens of neighbouring properties, particularly that of Orcheston, immediately to the rear of the appeal site. These views would be significant and would result in an unacceptable loss of privacy to those occupiers.
10. The appellant submits that the back to back distance between the habitable rooms in the host property and those on Spencer Street accords with that set out in the Arun Design Guide SPD 2020. That may be so, but the Council's reason for refusal contends that the harm arises from the overlooking of the private amenity space of neighbouring properties and not their habitable rooms. As I confirmed above, I concur with the Council's findings.
11. The appellant has referred to the photos included in their Appeal Statement taken from the first floor windows of the host property, showing the views that already exist of neighbouring gardens, which I observed on my site visit. However, these are existing views that you would commonly expect to find in this type of urban location. The views from the proposed terrace would be new and would be from a position that would be closer to neighbouring properties. I also note that the proposed terrace would serve a living room where the likely use of the terrace could be expected to be much higher or more frequent, compared to that of a bedroom.
12. The appellant contends that, with the 1.1 metre high screen, the line of sight of anyone sitting on the proposed terrace would be of the rooftops of neighbouring properties. There is no plan or section to support this statement and I am not convinced that the views would be as limited as the appellant contends. Even so, anyone standing on the proposed terrace would have clear views into neighbouring gardens.

13. The appellant contends that the proposed terrace would not result in significant harm to neighbouring occupier's privacy. For the reasons set out above, I do not agree.
14. The appellant submits that that a dormer window could be built, with full height glazing and sited just over 1 metre further back than the proposed terrace, under permitted development rights, providing unobstructed views of neighbouring properties. No evidence, in the form of a plan or a Certificate of Lawful Development, has been provided to show that a larger dormer window would be lawful and thus permitted development. Moreover, it is not for me to determine whether a larger dormer would be permitted development in relation to an appeal that has been made under section 78 of the Town and Country Planning Act 1990.
15. Even so, assuming a larger dormer was lawful and could be implemented under permitted development, in my judgement the proposed terrace, with its 1.1 metre high screen and with its projection over 1 metre beyond the rear wall of the host property, would have a significantly greater impact on the privacy of neighbours than a larger dormer window.
16. Given the above, I find that the proposed terrace would give rise to an unacceptable level of overlooking of neighbouring properties private amenity areas contrary to Policy D DM1 (3) and Policy D DM4 (c) of the Arun Local Plan 2011 – 2031 and paragraph 127 f) of the National Planning Policy Framework (February 2019). These policies seek to ensure that new development does not have an adverse effect on neighbouring properties as a result of overlooking, avoids impacts such as a significant loss of privacy and secures a high standard of amenity for both existing and future occupiers.

Conclusions

17. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR