
Appeal Decision

Site visit made on 18 December 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 31st December 2020

Appeal Ref: APP/V1260/D/20/3259811
15 Vale Road, Poole BH14 9AT

- 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 and Mrs J Smalley against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/20/00178/F, dated 10 February 2020, was refused by notice dated 3 July 2020.
 - The development proposed is described as 'Regularise the rear and side extension that are covered under permitted development but to include the terrace on the rear extension'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my site visit a single storey rear extension had been built at the appeal site, and the first-floor rear bedroom window had been replaced by French doors with a Juliet balcony. The rear extension did not have the lantern lights or roof terrace shown on the submitted plans. As what has been built does not fully accord with the plans before me, I have considered the appeal on the basis of the submitted plans, and not the development I saw on site.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties in respect of privacy, outlook and light.

Reasons

4. The gardens of the appeal site and neighbouring properties slope steeply and are terraced into several different levels. Due to the rising levels, the middle and rear parts of the gardens of 13 and 17 Vale Road are visible from the first-floor rear windows of the appeal property. The gardens of Nos 15 to 17 also allow views into the first-floor windows of their immediate neighbours. There is therefore already a considerable degree of mutual overlooking between the gardens and first-floor windows of these properties.
5. The ground floor windows and the patio areas immediately to the rear of Nos 13 and 17 are not visible from No 15 or its garden however, due to the angle of view and intervening vegetation and fencing. As a result, these areas are relatively private, more so than the rest of the gardens. Therefore, while relatively small, they provide important private outside space for the occupiers of those properties.

6. The proposed terrace would offer elevated views into the middle and upper parts of the gardens of Nos 13 and 17, however these would not be significantly greater than can already be achieved from the first-floor French windows. However, although set in from the boundaries, due to its height above the neighbouring patios, the proposed terrace at first floor level would give direct views down into those currently private areas, resulting in a significant and harmful loss of privacy for the occupiers of those properties.
7. The proposed glazed screen nearest to No 17 would only be 1.1m high. Consequently, it would only prevent overlooking of the patio of No 17 from anyone sitting on the proposed terrace, not from anyone standing on it. As such, even with the proposed screen the proposal would still result in some harm to the living conditions of the occupiers of No 17 in respect of privacy.
8. The proposed extension and screen would be visible from the patio of No 17, however as they would be set well in from the boundary, and given the low height of the proposed screen, they would have a limited impact on the outlook from that property.
9. The proposed screen next to No 13 would be approximately 1.8m high, sited close to the boundary. Due to its height, it would be effective in preventing overlooking of the patio of No 13. It would not significantly affect the outlook from the rear windows of No 13, which face towards the garden, with a single storey rear projection between them and the proposed screen. However, from the kitchen window and door in the side of No 13, and from the lower part of the garden and patio, the proposed screen would appear as a large and overbearing structure almost equivalent to a second storey in height. As No 13 is lower down the hill than No 15, the outlook from these areas are already somewhat limited by the change in levels and boundary treatments, and would be further restricted by the proposed screen.
10. Therefore, although the proposed mitigation would address overlooking in respect of No 13, it would adversely affect the living conditions of the occupiers of that property in respect of outlook. As the affected window and door do not serve a habitable room, the harm would be modest, but it would nevertheless weigh against the proposal.
11. The kitchen window and door of No 13 face the side of No 15 at relatively close distance, and as such the daylight and sunlight reaching them is already limited. As the proposed rear extension would not be much higher than the existing boundary fence, it would not significantly reduce light to the kitchen. The proposed glazed screen would also let light through. Neither part of the proposal would affect the small secondary kitchen window in the rear elevation. As such, the proposal would not result in a significant adverse effect on No 13 in terms of light.
12. Accordingly, with the proposed screens, the proposal would adversely affect the living conditions of the occupiers of No 17 in respect of privacy and of No 13 in respect of outlook. Without the screens it would result in significant harm to the living conditions of both properties in respect of privacy. Consequently, the proposal would conflict with Policy PP27 of the Poole Local Plan, which requires development to be compatible with surrounding uses and not to result in harmful impacts on amenity for local residents, including in terms of privacy and overbearing or oppressive development.
13. Furthermore, it would conflict with the provisions of paragraph 127 of the National Planning Policy Framework, which requires development to provide a good standard of amenity for existing and future users.

Other Matters

14. The proposed screen next to No 13 would be a similar height to a standard fence panel, however a fence would not normally be erected at first floor level, and would not be permitted development due to its height. As such, it is not a likely fallback position.
15. The appellant also contends that the screen would have less impact than a two-storey extension that could be erected as permitted development. The relevant legislation¹ limits the height and depth of such extensions however, and in particular restricts eaves height close to a boundary. Therefore, I cannot be certain that any permitted development would have a greater impact on No 13 than the appeal proposal. These potential fallback positions therefore carry minimal weight, and do not justify the harm that I have identified.
16. Extensions and a first-floor terrace with glazed screen have been approved at 27 Vale Road, however the evidence before me shows that terrace would be behind a two-storey extension. As such, it would provide views towards the middle and rear parts of the gardens of the neighbouring properties, not back towards the dwellings and the areas immediately to the rear of them. The presence of a high boundary wall and small patio contributed to the Council reaching the view that those proposals would not be overbearing on the immediate neighbour. Therefore, both the nature of the development and the relationship between the two properties were materially different to the proposal before me, and consequently, the impacts would not be comparable to the appeal scheme. As such, the grant of permission for No 27 does not justify the harm identified above.
17. Due to its design and set back from the front of the dwelling, the proposed side extension would have a limited impact in the street-scene and would screen the proposed development at the rear from public view. As such, the proposal would not harm the character and appearance of the area. Nor would it adversely impact biodiversity. The proposed rear extension would also have a limited impact on neighbouring properties as it would be of similar height to the existing boundary fences. However, the proposed extensions are part and parcel of the same development as the proposed terrace, and as such I cannot issue a split decision and approve only these parts of the proposed development.
18. There would be some economic benefits from construction of the proposals, but these would be short-term and limited, particularly as much of the work has already been undertaken, and therefore carry limited weight. The additional accommodation proposed would be of private benefit to the occupants, and therefore can only be afforded minimal weight. The proposal would not harm biodiversity, however this is of neutral consequence. The proposal would use more of the site than the existing dwelling, however as it would cause harm, I do not agree that it would optimise the potential of the site. The limited benefits of the proposal do not therefore justify granting permission for a development which conflicts with the development plan.

Conclusion

19. For the reasons given above, the appeal is dismissed.

L McKay

INSPECTOR

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)