



Appeal Decision

Site Visit made on 16 March 2021

by R E Jones BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2021

Appeal Ref: APP/Y3940/W/20/3264910

Ashley Wood, High Street, Kingsdown, SN13 8BH

- 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 and Mrs Jon Maddicott against the decision of Wiltshire Council.
- The application Ref 20/05663/FUL, dated 8 July 2020, was approved on 5 November 2020 and planning permission was granted subject to conditions.
- The development permitted is proposed Juliet balcony to first floor of extension currently under construction in accordance with 19/00360/FUL.
- The condition in dispute is No 4 which states that:
Prior to first use of the Juliette balcony here approved or within four months of the date of this permission (whichever is the sooner), full and complete details of a privacy screen to be fitted to the edge of the opening on the north elevation so as to provide an obstruction to unacceptable overlooking any views of the neighbouring property (Woodland Manor) shall have been submitted to and agreed in writing by the Local Planning Authority. The screen shall be installed in accordance with the approved details prior to the first use of the Juliette Balcony or within six months of the date of this permission (whichever is the sooner) and shall remain in that condition thereafter.
- The reason given for the condition is:
To mitigate unacceptable overlooking into the neighbouring property and its garden so as to ensure compliance with the requirements of CP57 of the WCS.

Decision

1. The appeal is allowed and planning permission Ref 20/05663/FUL for proposed Juliet balcony to first floor of extension currently under construction in accordance with 19/00360/FUL at Ashley Wood, High Street, Kingsdown SN13 8BH, granted on 5 November 2020 by Wiltshire Council, is varied by deleting condition No 4 and subject to the following condition:
 1. The development hereby permitted shall be carried out in accordance with the following drawing numbers: MF3-K062 Rev C Section C-C Proposed; MF3-PD20 Site Plan at First Floor Level; MF3-KD21 Rev C Proposed First Floor and Roof Plan; MF3-KD70 Rev B North Elevation as Proposed; MF3-KD71 Rev B East Elevation as Proposed; MF3-KD72 Rev C West Elevation as Proposed.

Application for costs

2. An application for costs was made by Mr and Mrs Jon Maddicott against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application form indicated that the development had not started at the time of submission. However, during my site visit I noted that building works,

including the formation of the Juliette balcony were at an advanced stage, albeit not fully completed.

Background and Main Issue

4. Planning permission for the development described in the banner heading above was granted in 2020 (the approved scheme). This permitted changes to the previously approved scheme under 19/00360/FUL, and involved replacing a window in a roof extension, on the north elevation, with a set of double doors with a glazed balustrade in front, to form a Juliette balcony. The Council was concerned regarding the extent of overlooking from the Juliette balcony towards the property at Woodland Manor, and therefore imposed condition no 4, requiring a privacy screen to be fitted to the edge of the double doors. The reason for this was to mitigate unacceptable overlooking and to comply with the development plan policy that seeks to protect the amenity of occupiers.
5. Taking the above background into account the main issue is the effect that removing condition no 4 would have on the living conditions of occupiers of Woodland Manor, with particular reference to their privacy.

Reasons

6. The appeal property comprises a large detached dwelling set within sizeable grounds. The property's eastern boundary adjoins that of Woodland Manor, a detached dwelling of similar proportions. The boundary separating the properties contains a line of tall, mature trees and shrubs.
7. The new double doors in the roof extension, although taller, would be the same width as the previously approved window. There would be an increase in the opening's glazed area although this would be confined to the lower portion of the doors, and to a much lesser extent their upper half, owing to the reduction in the number of window casements, from three to two. Consequently, and notwithstanding the larger glazed area, the angle of viewing towards the garden and nearest habitable room windows of Woodland Manor would not fundamentally change, nor would the new opening's separation distance from that property.
8. The double doors could be fully open and occupiers of the room could peer over the exterior balustrading. However, there would be no level platform projecting beyond the double doors that would allow occupiers of the appeal dwelling to sit or stand to obtain significantly greater or more expansive views towards Woodland Manor, than the approved window. In any case the views towards that property from within the room would be oblique given that they are primarily orientated towards the agricultural fields to the west, and the parts of the neighbouring garden least likely to be used as the principle areas of activity or use, such as outdoor seating.
9. Therefore, I am of the view, that the new Juliette balcony will have a comparable effect to the previously approved window and would not result in any significant change to the nature of overlooking or unacceptable harm to the privacy of the neighbouring occupiers at Woodland Park. Given this similar effect, it would make the requirement for the privacy screen to the edge of the new double doors unnecessary. Moreover, the separation distance maintained between the new double doors and the garden and window openings at Woodland Manor is

acceptable and would not lead to any significant harmful effect upon its existing privacy levels, while the existing boundary trees ensure a degree of screening.

10. I conclude that removing condition no 4 would not have an unacceptable effect on the living conditions of occupiers of Woodland Manor, with particular reference to their privacy. Moreover, given the specific circumstances of the case it would not be reasonable or necessary to impose this condition. I therefore find no conflict with Policy CP57 of the Wiltshire Core Strategy (adopted January 2015), which amongst other matters, requires proposals to ensure that appropriate levels of amenity are achieved, including the consideration of privacy.

Conditions

11. I have considered those conditions imposed on the approved scheme, amending them where necessary in accordance with the Panning Practice Guidance (PPG).
12. The plans condition is necessary as the development has commenced and must be completed in accordance with the listed drawings in the Decision.
13. Since the development was nearing a state of completion at the time of my site visit, I have not imposed a time limit condition. Furthermore, a matching materials condition is not necessary as this requirement is covered by the plans condition.

Conclusion

14. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and applying the condition referred to above.

RE Jones

INSPECTOR