



Appeal Decision

Site visit made on 8 March 2022

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st April 2022

Appeal Ref: APP/V1260/D/21/3286546

2 Huntly Road, Bournemouth BH3 7HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs Tran against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2021-6296-D, dated 1 July 2021, was refused by notice dated 7 October 2021.
 - The application sought planning permission for alterations, extension to dwellinghouse and formation of a balcony without complying with a condition attached to planning permission Ref 7-2021-6296-C, dated 18 June 2021.
 - The condition in dispute is No.3, which states that: The proposed balcony screening panels serving the terrace hereby permitted shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and shall be permanently retained and maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: To protect the amenity and privacy of adjoining properties and in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).
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Decision

1. The appeal is allowed and planning permission is granted for alterations, extension to dwellinghouse and formation of a balcony, without complying with condition No.3 of planning permission 7-2021-6296-C at 2 Huntly Road, Bournemouth BH3 7HH in accordance with the terms of the application, Ref 7-2021-6296-D, dated 13 August 2021, subject to the conditions listed in the attached schedule.

Preliminary Matters

2. The appeal relates to an application to carry out development without complying with a condition specified on a planning permission. That permission, ref. 7-2021-6296-C ('the C permission') was, in itself, for carrying out development without complying with a condition specified on planning permission ref. 7-2021-6296-B ('the B permission').
3. The current proposal has been described on the application and appeal forms, and Council's Decision Notice, as for the 'variation of condition'. That is not an act of development so I have described the development as originally permitted by the B Permission in my heading and formal Decision. The B permission was granted following an appeal, that also fell to me, so the description is as stated in that appeal Decision.

4. The plans submitted with the appeal application appear to be those relating to the B permission. The C permission allowed a larger balcony than that depicted. However, the application is clear that it relates to condition 3 of the C permission and the Council, in discussing the effect of the proposal refers to the larger balcony area. I am, therefore, satisfied that the Council has considered the proposal as described, that is in essence for the obscure glazing requirement on the enlarged balcony to be waived. The representations also suggest a similar understanding and to continue otherwise, would essentially be a request for an identical permission to the B permission.
5. Therefore, I have, likewise, determined the appeal on the basis of the plans listed on the C permission Decision Notice. For the above reasons, I am satisfied that no party would suffer injustice by this approach and my condition listing the approved plans mirrors that on the C Permission, as no alteration to that was sought by the application.

Main Issues

6. The main issues are the effect on the character and appearance of the area, and the effect on the living conditions of neighbouring residents in Keith Road.

Reasons

7. The B permission allowed a balcony above part of the flat roof. Although the glass of the balcony is shaded grey on the drawings, so are the windows of the main house, and there is no reference on the plans or in conditions that such denotes obscure glazing. Therefore, I see no reason that the B permission could not be built without obscure glazing.
8. The C permission allowed the balcony to extend across most of the flat roof, a considerably larger area. It would extend significantly past the first floor side elevation of the two-storey part of the dwelling, towards the boundary with Alyth Road. The dwelling occupies a corner plot and its position means that the balcony would be in a prominent location, viewed from Alyth Road and facing the front of the property. The side return elevation, broadly facing Alyth Road is less prominent.
9. The appellant would accept obscure glazing to the front elevation. Such would prevent clear views of domestic paraphernalia that might otherwise be seen at this elevated level, to the detriment of the character and appearance of the area. I, therefore, find that the condition is necessary in respect of the front elevation.
10. The rear elevation would not be readily seen in the public realm. Clear glass, and any resulting views of paraphernalia on the balcony would not harm the character and appearance of the area. They would be visible to neighbouring residents on Keith Road, but sight of tables, chairs and the like would not result in harmful living conditions.
11. When standing on the balcony, it would be possible to see over the top of the glass panels toward the rear elevations of properties on Keith Road, which include kitchen/dining areas that open out to the gardens. Obscure glazing would have no effect on this. When seated, obscure glazing might obstruct some outward views from people sat away from the balcony edge. However, this was not required by the B permission. While the balcony would now be larger, there would be no material difference in the relationship between the

neighbouring properties and that smaller balcony previously permitted compared to the larger one. As the relationship was previously found acceptable in respect of its effect on living conditions, I reach the same conclusion here. Therefore, the condition is not necessary to secure acceptable living conditions for neighbouring residents.

12. With regard to the above, the condition is necessary to secure compliance with those aims of Policy 41 of the Bournemouth Core Strategy 2012 (CS) that seek to ensure that development respects the site and its surroundings, but not in respect of those aims of the same policy that seek to protect the amenity of neighbouring residents. However, my findings indicate that a less onerous condition whereby only the front elevation needs to be obscure glazed would also meet these aims.
13. I have, therefore, allowed the appeal, but imposed a new condition specifying the necessary obscure glazing only. I have amended the time limit condition to reflect the date of the C permission and repeated the other conditions for which no change is sought.

M Bale

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the 18 June 2021.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J19053-001 (Site and Location Plans); J19053-004 (Existing Ground Floor Plan); J19053-004 (Proposed Ground Floor Plan); J19053-005 (Existing First Floor Plan); J19053-005/A (Proposed First Floor Plan); J19053-006/B (Proposed Second Floor Layout); J19053-006/C (Existing Second Floor Layout); J19053-007/C (Existing Elevations 1 of 2); J19053-007/D (Proposed Elevations 1 of 2); J19053-008/C (Proposed Elevations 2 of 2); J19053-008/C (Existing Elevations 2 of 2); C1419/P/100/P1 (Drainage Layout); C1419/P/300/P- (Construction Details).
- 3) Notwithstanding the details included on the application form the materials and colours to be used in the construction of the external surfaces of the extension hereby permitted shall match the elevation(s) to which the extension is to be added and such work shall be completed prior to occupation of the development granted by this permission.
- 4) The proposed balcony screening panels serving the terrace shown on the 'Proposed Plan Front (East) Elevation' on Drawing J19053-007/D (Proposed Elevations 1 of 2) hereby permitted shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and shall be permanently retained and maintained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

End of conditions