



Appeal Decision

Site visit made on 11 January 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st January 2023

Appeal Ref: APP/P2114/D/22/3306670

Sea Gem, Esplanade Road, Ventnor, Isle of Wight, PO38 1JL

- 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 & Mrs Clayton and Laura Belcher against the decision of Isle of Wight Council.
 - The application Ref. 22/00844/HOU, dated 10 May 2022, was refused by notice dated 6 July 2022.
 - The development is proposed balcony structure to the rear of property.
-

Decision

1. The appeal is allowed and planning permission is granted for proposed balcony structure to the rear of property at Sea Gem, Esplanade Road, Ventnor, Isle of Wight, PO38 1JL, in accordance with the terms of the application, Ref. 22/00844/HOU, dated 10 May 2022, and subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plan: drawing no. A/5800/2 Rev.A.
 - 3) Obscure glazed privacy screens at least 1.8 metres in height and glazed with glass that conforms to or exceeds Pilkington's Texture Glass Privacy Level 3 shall be erected along the eastern and western sides of the permitted balcony, as shown on approved plan, drawing No. A/5800/2 Rev.A. The privacy screens shall be erected prior to the first use of the balcony hereby permitted and shall thereafter be permanently retained as such.

Main Issue

2. The main issue is the effect of the proposed balcony on the living conditions of neighbouring occupiers.

Reasons

3. The appeal site is located to the south of Esplanade Road and comprises a two storey property that forms the end of a terrace of three similar properties. The appeal site slopes steeply to the south and as such its rear garden is formed by two terraces on different levels, beyond which is the garage and rear of the property known as Stella Maris. The surrounding area comprises a mixture of detached, semi-detached and terraced properties, including flats, ranging from two to three storeys, albeit Stella Maris is single storey. These properties also

vary in terms of their age, style, layout and form, albeit most properties, including the host, benefit from significant views of the sea.

4. The appeal proposal involves the construction of a balcony on the rear elevation of the host property to serve the existing lounge/dining room at first floor level. The proposed balcony would be sited towards the south western corner of the host building where there are already full height bi-folding glazed doors. The new balcony would have a depth of some 1.3 metres and its length would be some 3.3 metres, with 1.8 metre glazed privacy screens to either side and a 1.1 metre glazed balustrade to the front. I understand that the appeal proposal was submitted in response to a previous refusal for a larger balcony which did not include obscure screening.
5. Mutual overlooking of neighbours is an inherent and common characteristic of densely built up urban areas. It is very much a characteristic of the properties in the area surrounding and including the appeal site, with the first floor windows to the host affording oblique views over, in particular, neighbouring gardens to the west and east. Within this context, the proposed 1.8 metre privacy screens would, in my view, prevent any material or harmful increase in the level of overlooking of neighbouring properties amenity areas or indeed their habitable windows. The modest depth of the proposed balcony, the fact it would be set back from the common boundary with its neighbours and the provision of the privacy screens, all assist in mitigating any harmful impact on the living conditions of these properties.
6. Although the proposed 1.1 metre glazed balustrade, facing the front, would afford views to the south towards Stella Maris and obliquely to the adjacent block of flats, as I observed from the first floor lounge/diner they would not be materially different to the views that already exist from the large bi-folding glazed doors. Furthermore, the 1.8 metre privacy screen would largely mitigate any harmful overlooking of the flats or its amenity area. In relation to Stella Maris, this sits at a much lower level and given the distance involved, the presence of existing boundary treatment, the design and layout of that property including its rear windows and there being no apparent rear private amenity area, any impact on that property's living conditions would, in my view, be limited and certainly not sufficient to justify the refusal of planning permission.
7. With regard to noise and disturbance, there is no substantive evidence before me to suggest that the use of the proposed balcony would lead to any harm in this respect. Whilst I accept that the proposed balcony would allow the occupiers to stand or sit out, its modest size would, in my view, preclude any large gatherings. Even so, the noise and disturbance that would emanate from the new balcony would not be materially different to the noise that could be generated with the large bi-folding doors open (aided by a safety balustrade or similar) or the noise that is generated from the rear external patio areas (terraces) to the host property.
8. I am also satisfied that the proposed balcony would not impact on the outlook of neighbouring properties. As I confirmed, the scale of the proposal is modest and it would be a light weight structure comprising predominantly glazing with a cladded deck supported by steel posts. It would be set back from the common boundary with its neighbours and its largely glazed construction would enable light to permeate through it. As such, any visual impact or impact on neighbours outlook would be minimal.

9. Accordingly, I find that the proposed balcony would not result in any significant harm to the living conditions of neighbouring occupiers. As such, the proposal would accord with paragraph 130 f) of the National Planning Policy Framework (July 2021) (Framework) which requires new development to secure a high standard of amenity for existing and future users.
10. Whilst the Council have referred to policy DM2 of the Island Plan Core Strategy & Development Management Development Plan Document (March 2012) (IOWCS), they have not indicated which part of this policy they consider relevant. On reading the policy I could not find a reference to existing and/or future neighbours living conditions (amenity). Even so, insofar as criteria 2 of the policy requires development to have regard to existing constraints, such as adjacent buildings and views, I am satisfied that the proposal would comply with this criterion and thus with the overall aims and objectives of policy DM2.

Other Matters

11. The appeal site lies within the Ventnor Conservation Area (VCA). Section 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 requires, therefore, that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Similar advice is to be found in the Framework and policies DM2 and DM11 of the IOWCS. However, as I found earlier, the appeal proposal is modest in scale and involves a small addition to the rear of the host property, which, as with its neighbours, is not of any special historical or architectural merit or value. I note that the Council's Delegated Report found, for similar reasons, that the proposal would not impact on the streetscene or the character and appearance of the area. Consequently, based on the above and my observations on site I am satisfied that the proposal would not result in any harm to the character or appearance of the VCA as a whole.

Conditions

12. I have considered the Council's suggested conditions against the advice in the Framework and the Planning Practice Guidance chapter on the use of planning conditions. A condition requiring compliance with the submitted plan is necessary and reasonable in order to secure a high quality development. I also consider that a condition requiring the provision of the proposed privacy screens prior to first use of the new balcony and their retention for this purpose thereafter is also necessary and reasonable in order to protect the living conditions of neighbouring occupiers. However, I do not consider it necessary for further details to be submitted and approved by the Council and have reworded the condition to require the privacy screens to be provided as shown on the approved plan and to meet a recognised standard for such obscure glazing.

Conclusion

13. For the reasons given above and having taken all the matters raised into account, I conclude that the appeal should be allowed.

G Roberts

INSPECTOR