



Appeal Decision

Site visit made on 20 February 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 13th March 2023

Appeal Ref: APP/P1133/D/22/3309240

Sunyani, Newton Road, Bishopsteignton TQ14 9PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr D Mutton against the decision of Teignbridge District Council.
- The application Ref: 22/00247/VAR dated 7 February 2022, was refused by notice dated 14 September 2022.
- The application sought planning permission for ground floor front extension and new garage without complying with conditions attached to planning permission Ref: 14/01530/FUL dated 13 August 2014.
- The conditions in dispute are Nos 2 and 4 which state that:
No 2: The works hereby permitted shall be carried out in accordance with the application form and the following approved plans/documents:
Received on 30 June 2014
 - Location Plan- Drawing numbered 1A
 - Site Plan- Drawing numbered 2A
 - Block Plan and Site Sections- Drawing numbered 3A
 - Plans at Road Level and House Level- Drawing numbered 4A
 - Ground Floor Plans- Drawing numbered 5A
 - First Floor Plans- Drawing numbered 6A
 - Roof Plans- Drawing numbered 7A
 - Section A- Drawing numbered 8A
 - Section B- Drawing numbered 9A
 - Section C- Drawing numbered 10A
 - South Elevation- Drawing numbered 11A
 - West Elevation- Drawing numbered 12A
 - East Elevation- Drawing numbered 13A
 - North Elevation- Drawing numbered 14A
 - Proposed Site Section at Neighbour and East Elevation- Drawing numbered 16A
 - Plan of Parking- Drawing numbered 17A
 - Land Registry Plan

No 4: The louvered screen shall be installed to the extended balcony to the height shown on the submitted plan drawing no. 13 prior to first use of the extended balcony and shall thereafter be retained in perpetuity.

- The reasons given for the conditions are:
No 2: In order to ensure compliance with the approved drawings.
No 4: To protect the occupiers of the neighbouring property from an unacceptable level of overlooking.
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Decision

1. The appeal is allowed and planning permission is granted for ground floor front extension and new garage at Sunyani, Newton Road, Bishopsteignton TQ14 9PS in accordance with the application Ref 22/00247/VAR dated 7 February 2022 without complying with conditions No 2 and No 4 set out in planning permission Ref 14/01530/FUL granted on 13 August 2014 by Teignbridge District Council, but subject to the following condition:
 - 1) The approved plans for the development are:
 - Location Plan- Drawing numbered 1A
 - Site Plan- Drawing numbered 2A
 - Block Plan and Site Sections- Drawing numbered 3A
 - Plans at Road Level and House Level- Drawing numbered 4A
 - Ground Floor Plans- Drawing numbered 5A
 - First Floor Plans- Drawing numbered 6B
 - Roof Plans- Drawing numbered 7A
 - Section A- Drawing numbered 8A
 - Section B- Drawing numbered 9A
 - Section C- Drawing numbered 10A
 - South Elevation- Drawing numbered 11A
 - West Elevation- Drawing numbered 12A
 - East Elevation- Drawing numbered 13B
 - North Elevation- Drawing numbered 14A
 - Proposed Site Section at Neighbour and East Elevation- Drawing numbered 16A
 - Plan of Parking- Drawing numbered 17A
 - Land Registry Plan

Preliminary Matters

2. Permission was granted by the Council in 2014 for ground floor extension and new garage. The application forms confirmed that the development had been undertaken at the time the application was submitted but without complying with all of the plans listed under Condition 2 and without complying with Condition 4 relating to the erection of a louvered screen prior to first use of the balcony. I shall therefore consider the appeal on the basis of seeking retrospective permission for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.

Main Issue

3. The main issue in this appeal is whether the conditions are necessary to protect the living conditions of the adjoining neighbours at Virgates, with particular regard to overlooking and loss of privacy.

Reasons

4. The appeal property is a detached house on the north side of Newton Road. The appeal property and a small number of surrounding properties are accessed off a private road, leading off Newton Road. The road slopes upwards from Newton Road, so that the appeal property is at a higher level than its neighbour to the east, at Virgates. The houses are all set at a higher level than the road with sloping front and rear gardens. Reflecting their elevated position,

there are extensive views over the estuary from the front of the appeal property and its front garden area, and this is the same for many of the surrounding properties. As a result, a number of the properties have raised terraces and balconies to the front of their properties.

5. The permission granted in 2014 included for a balcony leading off the living area at the front of the house but subject to a requirement for a louvred screen along part of the side elevation to screen views to Virgates and protect the amenities of these neighbours. The balcony has been erected but the louvred screen has not been undertaken. The Appellant has referred to the provision of a sliding opaque screen which is used when there are people on the balcony but I agree with both the Appellant and the Council that this can only be regarded as a voluntary arrangement and there is no planning mechanism which could be used to control the use of such an arrangement. Although I note that the Appellant has confirmed that he will use this sliding screen in the interest of a satisfactory neighbour relationship, I am unable to give weight to this proposal and it is therefore necessary for me to consider the position on the basis of whether the fixed screen is required to protect the privacy of the neighbours.
6. From my site visit and from the balcony there are views over the neighbour's front garden and driveway, but these are open to views from those travelling up and down the access road, and from a number of the other houses. Although the front of the neighbour's house can be seen from the raised terrace, the angle of view and distance limit the views into the windows and therefore into the rooms (a bedroom and the sitting room). Views are also possible over part of the neighbours' garden, but similar views are already available from the rear of the Appellant's property and rear garden.
7. I am therefore satisfied that the fixed louvred screen is not necessary to protect the living conditions of the neighbours at Virgates, with particular regard to overlooking and loss of privacy. The removal of this requirement for a fixed screen does not conflict with Policies S1 and WE8 of the Teignbridge Local Plan and the National Planning Policy Framework, with particular reference to paragraph 130, all of which amongst other matters seek to protect the amenities of existing and future occupiers.

Other Considerations

8. I have noted the concerns raised by the neighbour in respect of a number of matters, but my decision is necessarily based on the planning merits of the case before me.

Conditions

9. As this decision grants a new planning permission for the development, it is necessary for me to review the conditions as originally imposed to consider those which may still be applicable alongside any I consider are necessary to impose. Most of the conditions relate to the construction of the development, which has now been completed and therefore it is not necessary for me to reapply these conditions. For the reasons given above, I do not consider that it is necessary to require a permanent fixed screen, although the new plans show the screen that the Appellant has proposed to use, in the interests of neighbourliness. The only condition I shall impose is to list the approved plans,

amended as sought, for the avoidance of doubt and in the interests of good planning.

Conclusion

10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

L J Evans

INSPECTOR