



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: 23 March 2023

Appeal Ref: APP/P1133/D/22/3308313

4 Riverside, Shaldon TQ14 0DJ

- 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 Penlee Development Ltd (Bernard Howard) against the decision of Teignbridge District Council.
 - The application Ref:21/02776/HOU dated 1 December 2021, was refused by notice dated 8 August 2022.
 - The development proposed is provision of fire exit to comply with fire safety: Approved Document B
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Penlee Development Ltd (Bernard Howard) against Teignbridge District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application forms indicate that the works were started in November 2019 but not yet completed.
4. Although not shown on the submitted drawings, there is a glazed opening currently in place on the south east elevation of the rear room at first floor. Although I have not been provided with the full details, the Council has noted that previous permissions relating to extensions and alterations to the property have included conditions to indicate no upper floor windows to the south east elevation of the rear extension and a further condition to remove permitted development rights for the installation of windows other than those expressly permitted. The Appellant has confirmed, and the Council has considered this proposal on the basis of seeking permission to retain the opening as well as to construct the balcony as a fire escape.

Main Issue

5. The main issue in this appeal is the effect of the development undertaken and the proposal on the living conditions of the neighbours at No 3 Riverside with particular regard to overlooking and loss of privacy.

Reasons

6. The appeal property is a terraced property on the south west side of Riverside which has been refurbished and extended. The proposal seeks to construct a fire escape from the first floor rear room by means of the construction of a balcony from a first floor opening.
7. The proposals do not show how the fire escape would work, with particular reference to how the escape would be connected to the ground floor either within the site or elsewhere. There is reference that the landing would be within 400mm above the southern boundary wall, but it is not at all clear how this escape route would work in practice. Although the Appellant has referred to agreement reached with the Devon Building Control Partnership in respect of a fire safety exit, the Devon Building Control Partnership were consulted on the application and have advised that as the proposed balcony would not feature any access to the ground floor, the proposed solution would not meet building regulations. The Appellant has not provided any additional information or explanation in this regard.
8. I consider that the Council was correct to consider other planning implications as a result of the development and the proposal including the effect on neighbouring amenities. This is particularly so as there is no indication in the submission that the balcony could and would only be available in the event of a fire, and I do not consider that such a restriction would be practical to enforce. The terraced houses have very limited private space at the rear, but the glazed opening as inserted does and the fire escape balcony as proposed would offer direct views into the neighbouring property and its back courtyard. I note that the proposal would include some obscure glazing but this is limited in extent and would not overcome this harm as I consider that views would still be possible directly into the windows and open space of the adjoining property. It might be possible to increase the height and extent of obscure glazing but this would result in a very overbearing and over intrusive structure which would also harm the living conditions of the neighbours due to its over dominant form.
9. I consider that the window as installed and the fire escape balcony as proposed would unacceptably harm the living conditions of the neighbours at No 3 Riverside with particular regard to overlooking and loss of privacy. This would conflict with Policies S1 and WE8 of the Teignbridge Local Plan as well as the National Planning Policy Framework with particular reference to paragraph 130, all of which, amongst other matters, seek a high standard of amenity for existing and future occupiers.
10. I have noted the wider family ownership of the two properties, but that does not, in my view, override the need to protect the amenities of the occupiers of the neighbouring property, particularly as ownership may change in the future.

Other Considerations

11. The appeal site lies within the Shaldon Conservation Area. This Conservation Area covers most of the historic core of Shaldon, with its significance being the close knit and attractive range of mainly two storey buildings dating largely from the late 18th century and into the 19th century which reflect the development of the village as a seaside resort, with a few buildings remaining which point to its earlier development as a fishing village. Section 72 (1) of The

Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that, in respect of development within a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

12. To the immediate rear of the building are two listed buildings, Ferndale and London Inn. Section 66 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural interest which it possesses, in considering whether to grant planning permission for development which affects a listed building or its setting.
13. Given the scale of the opening and balcony in relation to the existing building, their position at the rear of the building as well as the relationship with the buildings to the rear, I do not consider that the opening does or the proposed balcony would materially affect either the significance of the Conservation Area or the setting of the adjacent listed buildings. I am therefore satisfied that the development does and would preserve the character and appearance of the Shaldon Conservation Area and does and would preserve the setting of the adjacent listed buildings. The Council has also raised no objection in this regard.
14. The Appellant has raised concerns about the way in which the application was progressed including timing delays and the lack of an opportunity to discuss with officers. However, my decision is based, as it is required to be, on the planning merits of the case before me.

Conclusion

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

L J Evans

INSPECTOR