



Appeal Decision

Site visit made on 27 February 2023

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Appeal Ref: APP/B1740/D/22/3312676

4A Belmore Road, Lymington, Hampshire, SO41 3NT

- 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 Queenan against the decision of New Forest District Council.
 - The application Ref 22/10910, dated 29 July 2022, was refused by notice dated 14 September 2022.
 - The development proposed is alterations to single-storey lean-to create balcony above.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description in the banner heading above that was given by the Council on the decision notice and which was repeated by the appellant on the appeal form. This gives a more accurate description of the development compared to that given on the original application form, which read simply '*Proposed balcony*'.

Main Issue

3. The main issue is the effect of the proposal upon the living conditions of adjoining occupiers, particularly at 6 Belmore Road and 7 Hamilton Place, with specific regard to privacy.

Reasons

4. The appeal property is a detached, two-storey dwelling with a very deep rear garden in excess of 30m extending north. The first half of the garden to the west side is bordered by the rear garden to the neighbouring property at 6 Belmore Road. Beyond this are the shallow gardens to Nos 3-7 (consecutive) Hamilton Place, a row of chalet-style dwellings set perpendicular to the orientation of the appeal site, with No 7 closest to No 4A and set immediately at the end of the garden to 6 Belmore Road. The neighbour to the east side at No 4 has a very shallow rear garden. Beyond that, the rear garden boundaries to properties at Nos 20-30 (even) Belmore Lane adjoin the east boundary of the appeal site. Despite some apparent recent clearance of some vegetation, the rear garden to No 4A contains a mix of some dense and mature tree and shrub planting.

5. The appeal property has an existing single-storey lean-to projection to the rear. This extends to a depth of 2.5m and spans approximately half the width of the dwelling and immediately abuts the west side boundary shared in common with No 6. The proposal would alter the sloping roof above this projection to create a balcony area at first-floor level with access gained from a pair of new proposed doors leading from an existing bedroom. The plans include the provision of 1.8m high privacy screens to the sides of the balcony, indicated to be made of either timber or metal, with a lower trellis enclosure to the front face.
6. I saw during my visit that the outlook from the existing first-floor bedroom window over the single-storey projection to be principally down the garden to No 4A. Only an angled view over the end part of the garden to No 6 could be had, and which was largely screened by the pitched roof of a garage which sits deep in the garden of this neighbouring property and along the shared boundary with the appeal site. The gardens to Nos 20-30 Belmore Lane were of either sufficient distance or else seen at such an oblique angle there was little prospect of any direct overlooking that was intrusive.
7. The proposal to create a balcony at this point would effectively project the position up to 2.5m beyond the existing window where anyone at first-floor level could look towards these gardens. With appropriate privacy screens in place, which could reasonably be secured by condition, I am satisfied that there would be no potential for any increased overlooking of the gardens immediately to either side of 4A at Nos 4 and 6 Belmore Road, and 30 Belmore Lane. I am also satisfied that the distances to those gardens on the east side beyond No 30 would remain sufficient to avoid any loss of privacy within those premises.
8. However, the relationship with 7 Hamilton Place is considerably more intimate than those others. The rear garden to No 7 is very short and the outlook from the existing bedroom window does afford sight towards this amenity area at reasonably close distance and at only a very shallow angle of vision. Regardless of any privacy screens to the balcony, the ability to look towards the rear garden to No 7 would remain, but at closer quarters. Furthermore, as an outside space, the balcony would create the potential for periods of more prolonged use and overlooking from an elevated position compared with that from a bedroom window, and at times when the occupiers of No 7 would be likely to be enjoying their own outside garden amenity at ground level.
9. I saw that the existing vegetation at 4A does currently provide some screening that avoids significant intrusion to the living conditions at No 7. However, the retention of this as an effective barrier long term could be neither guaranteed nor reasonably controlled. Neither am I persuaded that the roof to the adjacent garage at No 6, or the boundary enclosures to No 7, would mitigate any possible impact. I therefore find that the proposed balcony would have the potential to result in an unacceptable level of overlooking that would significantly impact the levels of privacy currently enjoyed at 7 Hamilton Place. As such there would be conflict with Policy ENV3 of the Local Plan 2016 - 2036 Part 1: Planning Strategy for the New Forest District outside the New Forest National Park (LP Part 1) insofar as it seeks to ensure new development, amongst other things, avoids the unacceptable effects of overlooking. By failing to achieve a high standard of amenity for existing and future users, there would also be conflict with the National Planning Policy Framework's objectives for achieving well-designed places.

Other Matters

10. The bottom half of the appeal property's rear garden is situated within the boundary of the Lymington Conservation Area. The Council is satisfied that the proposal would have no impact on the setting or special character of the Lymington Conservation Area. I have no reason to disagree and am satisfied that the conservation area's significance as a heritage asset would be unaffected.
11. The arrangement at 30 Belmore Lane is discussed by the appellant and I saw during my visit that there is a floor to ceiling pair of glazed double doors to a habitable room at first-floor level and facing towards the rear garden of the appeal property. However, regardless of the planning background to this, the arrangement did not appear to me to offer the same capability afforded by the appeal proposal for outdoor use. The circumstances are not comparable. I understand that there may be other first-floor balconies in the area, but these examples do not alter my findings as far as they relate to the impact in this case upon living conditions at 7 Hamilton Place.
12. I have noted the appellant's frustrations and criticisms of how the planning application was handled and reported by the Council, but these factors are not directly relevant to how I have considered the planning merits of the case.

Conclusion

13. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

John D Allan

INSPECTOR