



Appeal Decision

Site visit made on 24 January 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5TH March 2024

Appeal Ref: APP/P1133/D/23/3321444

5 Fore Street, Shaldon TQ14 0DZ

- 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 Clinton Pugh against the decision of Teignbridge District Council.
 - The application Ref 21/01021/HOU, dated 29 April 2021, was refused by notice dated 24 February 2023.
 - The development proposed is conversion of potting shed to habitable rooms with a first floor extension over.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development from the Council's decision notice as it more concisely describes the proposal.
3. The appeal building forms part of a Grade II listed building along with No 3 Fore Street (List Entry Number: 1269205). As such, listed building consent has been sought separately for the works and granted under Ref 21/01022/LBC, dated 24 February 2023.

Main Issue

4. The main issue is the effect of the proposals on the living conditions of the neighbouring occupiers at 'Boat Float' in terms of daylight and outlook.

Reasons

5. The appeal dwelling is a semi-detached, early-mid C19 dwelling of two storeys with rooms in the roof and C20 gabled dormers. It has an attractive arrangement of fenestration which is largely symmetrical with the adjoining dwelling, No 3, and they share a central chimney stack. They front onto Fore Street, though the appeal dwelling also has an alley way to the east. They both fall within the Shaldon Conservation Area.
6. The appeal dwelling has a rear extension that sits adjacent to the eastern boundary which is single storey in height. This encloses a courtyard garden on the inside. The very end part of this extension is the existing 'Potting Shed' which has a lower lean-to roof. The proposal seeks to extend this rearmost element upwards to create a separate room above the existing ground floor store and to utilise both as living accommodation as part of the main dwelling.

7. To the rear of the appeal dwelling is No 22 Middle Street which has an attached bedsit dwelling known as the 'Boat Float' (formerly Cabin Cottage). The Boat Float has its own entrance, ground floor kitchen, stairwell and upstairs bedroom and shower room. Given the modest size of this bedsit accommodation, the bedroom serves a dual purpose as a living space as well. The entrance door is glazed and has an adjoining window, the upstairs shower room has an obscure glazed window. The upstairs bedroom has two windows: one that looks directly onto the appeal dwelling and its courtyard which the evidence suggests is fully openable. The other window is on the other side of the room and faces east, with an outlook restricted by the return wall of the shower room.
8. Despite it being covered with a heavy curtain at the time of my visit, the window that looks onto the appeal site from the first floor has an undeniably intrusive presence and gives a perception of the courtyard being overlooked. That it is not the obscure glazed, fixed window that was sought by way of a condition imposed on the original permission¹ is unfortunate. I note from the evidence that despite previous investigations, enforcement action has not resulted in the window being obscure glazed or maintained as fixed shut, and thus, I shall treat it as a typical window without such restriction.
9. With the upwards extension of the Potting Shed, the front wall would overlap with the window, obscuring up to around half of it and at a distance of around 1.4m away.
10. In terms of the effects of the occupiers of Boat Float, the proximity of the extension would introduce a substantial built mass almost within touching distance of the window, the effects of which would be to result in a sense of enclosure of the room to the detriment of the occupiers.
11. I appreciate that the bedroom has another window facing to the east and that the original expectation was that the subject window would not provide an outlook. However, in my view, the outlook from the east-facing window is also compromised due to its position and set back. Furthermore, the living conditions of the occupiers have become established with a dual aspect outlook over a not insignificant period. Therefore, in my view, the proposal would result in a loss of openness and outlook of the window, which would be overbearing.
12. In terms of whether there would be a material loss of daylight from the bedroom, a plan² has been submitted which shows the sun path around 5 Fore Street and the adjacent 22 Middle Street. The Plan indicates that there would be only marginal effects on the daylight during summer mornings, owing to the position of other higher buildings and low position of the sun. The Plan shows that at the centrepoint of the window, a vertical sky component of some 25° to the horizontal would remain, which would be consistent with BRE guidance³. However, in reality, the front wall of the extension would avoid the centrepoint of the window by only a few centimetres which suggests that whilst the test is passed on a technicality, there would still be an effect from almost half of the window being obscured. Therefore, despite the evidence pointing to these effects being relatively limited, I still consider that the degree of daylight lost

¹ Planning Ref 99/2694/50/3 dated 25 October 1999, followed by 12/01069/CLDE dated 20 July 2012

² Plan Ref 2034/P009 Sun Shading

³ BRE Site layout planning for daylight and sunlight: a guide to good practice

would contribute to a sense of oppression to the occupiers of a modest dwelling with limited light sources and outlook.

13. I note that there is evidence that the overlooking window in the Boat Float is intrusive and the support for the proposal from the occupier of No 3 Fore Street is based, in part, on the experience of this window overlooking their house and garden too. However, the proposal will only overlap with around half of the window and would also narrow any remaining outlook towards the appeal site and neighbouring occupier at No 3 Fore Street. It would not result in a material betterment in terms of the privacy desired by the Appellant or the adjoining occupiers at No 3, but could have the opposite effect.
14. For the above reasons, the proposal would be harmful to the living conditions of the neighbouring occupiers at Boat Float, thus conflicting with, in particular, Policy WE8 of the Teignbridge Local Plan (adopted 2014). This Policy seeks to ensure that adaptations to existing dwellings are designed to avoid the undue loss of outlook or light to habitable rooms of neighbouring properties and avoid dominant or overbearing impacts.

Planning Balance

15. The effects of the proposal on the living conditions of neighbouring occupiers bring it into conflict with the development plan when taken as a whole.
16. The improvement of the dwelling would typically be a largely private benefit to the Appellant, however, in this case, the dwelling is a designated heritage asset. The proposal would ensure the continued survival of the listed building and better reveal its significance through sympathetic repair works, though many appear to be capable of being implemented independently of the appeal proposal. Nonetheless, such heritage benefits constitute public benefits of the scheme that weigh in its favour.
17. However, my conclusion is that the heritage benefits do not outweigh the identified harms such that they indicate that a decision should be taken other than in accordance with the development plan. No other considerations have been advanced that do so either.

Other Matters

18. I note the Appellant's frustration that the appeal application took a considerable period of time for the Council to determine, which is regrettable. I also note that the Council has separately granted Listed Building Consent for the works, which appears at odds with my findings on this appeal. However, my decision has focussed on the planning merits of the scheme before me and neither of these matters has been determinative.

Conclusion

19. For the foregoing reasons, the appeal is dismissed.

H Nicholls

INSPECTOR