



Appeal Decision

Site visit made on 16 April 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2024

Appeal Ref: APP/D1265/D/23/3332828

Outlook, View Road, Lyme Regis, Dorset DT7 3AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Hatfield against the decision of Dorset Council.
 - The application Ref is P/HOU/2023/02609.
 - The development proposed is two storey extension and porch.
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Decision

1. The appeal is allowed and planning permission is granted for two storey extension and porch at Outlook, View Road, Lyme Regis, Dorset DT7 3AA in accordance with the terms of the application Ref P/HOU/2023/02609, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location and block plan drawing number C2320.01; Proposed floor plan drawing number C2320.04; Proposed elevations drawing number C2320.05 and Proposed site plan drawing number C2320.06, all dated 29 March 2022.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The extension hereby permitted shall not be occupied until the window at first floor level on the south east elevation has been fitted with obscured glazing, and no part of that window shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed. Once installed the window shall remain non-opening and the obscured glazing shall be retained thereafter.

Preliminary Matters

2. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes" (NLs). I have therefore referred to the Dorset AONB as the Dorset National Landscape. However, for the avoidance of doubt, the legal designation and policy status of these areas are unchanged.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the living conditions of the occupiers of neighbouring property known as 'Kelly Bray' with respect to outlook and privacy.

Reasons

4. 'Outlook' is a detached dwelling located in a predominantly residential area with a mix of dwelling styles, types and sizes.
5. Located on sloping ground, the ground floor of the appeal property is set below the level of View Road. The porch has been erected on the front elevation in materials which match the main dwelling. Due to its siting and modest scale, the porch respects the character and appearance of the main dwelling and does not appear at odds with the overall street scene. In this respect, there would be no conflict with Policy ENV12 of the West Dorset, Weymouth and Portland Local Plan 2015 (LP) in relation to the design and positioning of buildings.
6. The neighbouring property to the south-east, known as 'Kelly Bray', is set further back from View Road than the appeal property. As such, the proposed two storey extension to the rear of the appeal property would project no further out than the rear elevation of 'Kelly Bray'. The roof of the extension would have hips on three sides and a flat top which would minimise the overall height of the proposed extension. This, together with its siting relative to 'Kelly Bray' means that it would not have an overbearing effect on the occupiers of that property.
7. The sloping topography in the immediate vicinity of the appeal site and the relative positioning of dwellings means that overlooking already occurs between neighbouring properties. The appeal property has its main living accommodation at first floor level. An oriel window and Juliet balcony to the dining area provides 180 degree views roughly north to south. From this window there are oblique views into the rear garden of 'Kelly Bray'. I also saw at my site visit there is an elevated patio area at the rear of the adjacent property known as 'Satori'. As a result, privacy in the rear garden of 'Kelly Bray' is already compromised.
8. The proposed extension will not result in any greater overlooking to the existing windows and door on the side elevation of 'Kelly Bray'. Equally, there would be no loss of privacy to the windows on the rear elevation of the house as the proposed extension would not project beyond its rear façade. Although privacy is already compromised, there are times of the year when the raised patio area of 'Satori' would not be in use. In addition, the prevailing views from the patio are in a south easterly direction towards Lyme Bay, rather than back towards 'Kelly Bray'. The proposed extension on the other hand, would provide the occupiers with a direct view into the rear garden and the conservatory on the rear of 'Kelly Bray' at all times. Notwithstanding whether the first floor is occupied as a bedroom, office or other habitable accommodation, this would result in a significant adverse effect on the living conditions of the occupiers of 'Kelly Bray' through loss of privacy.
9. The appellant has suggested¹ a condition requiring the window on the south east elevation to be non-opening and obscure glazed. This would overcome any

¹ At paragraph 11 [Areas of Compromise] of the Statement of Case

unacceptable overlooking. Securing this by way of a condition would be reasonable and necessary to prevent overlooking.

10. The proposal therefore complies with Policy ENV16 of the LP which seeks to avoid significant adverse effects on the living conditions of existing residents through loss of privacy or an overbearing impact. Accordingly, I also find no conflict with Paragraph 135 of the National Planning Policy Framework in respect of providing a high standard of amenity for existing users.

Other Matters

11. Although not referred to in the reason for refusal, the Council's officer report refers to the impact of the two storey extension on the living conditions of the occupiers the property to the north west. I saw at my site visit, that due to the orientation of 'Little Rowan', the extension would have a visible presence when viewed from its main living areas. However, its siting, height and extent of projection is such that it would not result in a loss of light or have an overbearing impact on the occupiers of 'Little Rowan' to a harmful extent. The high level obscure glazed windows on the north west elevation would prevent overlooking.
12. Other interested parties have expressed concerns about overlooking. However, a degree of mutual overlooking is a common feature in this residential area due to the topography and the proposed extension would not lead to further overlooking to a harmful extent.
13. The proposed extension by virtue of its size, siting, design and use of matching materials would not be at odds with the character and appearance of the host dwelling. Whilst the extension would extend into an open area providing expansive views from View Road across Lyme Bay, much of the view would be retained. I share the Council's view that the proposal would not detract harmfully from the street scene.
14. Concerns have been expressed about land stability and that some properties are experiencing subsidence. However, there is no substantive evidence before me that the proposed extension would contribute to land instability. In any event, Paragraph 190 of the Framework states that responsibility for securing a safe development rests with the developer and/or landowner.
15. A dwelling has been erected in part of the former garden area of the appeal property. Whilst the proposed extension would reduce the available garden area further, this would not amount to overdevelopment. A usable garden area would remain. Given the extent of hard landscaping in the garden, the impact of the proposed extension on wildlife habitat is negligible.
16. Interested parties have also raised concerns that the porch has already been erected. This type of application is possible under Section 73A of the Town and Country Planning Act 1990 which allows for the submission of 'retrospective' applications.
17. The construction works for the proposed extension would, no doubt, cause a degree of disturbance and disruption in an area which interested parties advise has seen ongoing construction projects for some time. Whilst I have some sympathy for existing occupiers in these circumstances, the works would be time limited and it would not be reasonable to withhold consent on this basis alone. Concern has also been expressed that the works would result in a loss of

income from letting. However, planning is concerned with land use in the public interest. As such the protection of purely private interests is not a consideration I have given any weight to².

18. The appeal site is located within the Dorset National Landscape (DNL). From what I have seen and read, including the Council's consideration of the impact of the proposal on the DNL, I am satisfied that the proposal would conserve its natural beauty and no conflict with Policy ENV1 of the LP would arise.

Conditions

19. As the porch has already been constructed, the standard commencement condition is not necessary. It is necessary to specify the approved plans in the interests of certainty and a condition is also necessary to ensure that the materials used in the development match the existing dwelling in the interests of visual amenity.
20. A condition requiring the first floor window on the south east elevation to be non-opening and obscure glazed is necessary to protect the adjacent occupiers from an unacceptable level of overlooking.

Conclusion

21. For the reasons given above, I conclude that the appeal should be allowed.

Alison Fish

INSPECTOR

² Paragraph: 008 Reference ID: 21b-008-20140306 of the Planning Practice Guidance