



Appeal Decision

Site visit made on 9 May 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 29th May 2024

Appeal Ref: APP/P1133/D/24/3340959

Glendon, Ideford Combe, Sandygate, Devon TQ12 3GR

- 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 Mrs Melanie Winterburn-Brannick against the decision of Teignbridge District Council.
 - The application Ref: 23/01297/HOU dated 11 July 2023, was refused by notice dated 9 January 2024.
 - The development proposed is balcony at first floor level.
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Decision

1. The appeal is allowed and planning permission is granted for balcony at first floor level at Glendon, Ideford Combe, Sandygate, Devon TQ12 3GR in accordance with the terms of the application Ref: 23/01297/HOU dated 11 July 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Except in relation to the privacy screens, the materials to be used in the construction of the external surfaces of the development hereby permitted shall be as specified on the application forms.
 - 3) Except in so far as the plans show the proposed balcony glazing and screening panels, the development hereby permitted shall be carried out in accordance with the following approved plans: 23040 09002 PO1; 23040 09001 PO1; 23040 02001 PO1; 23040 02002 PO1; 23040 01002 PO1; 23040 01001 PO1; 23040 01004 PO1; 23040 01005 PO1; 23040 02003 PO1; 23040 02004 PO1.
 - 4) Prior to the commencement of the development hereby permitted and notwithstanding condition 3, revised plans shall be submitted to and approved in writing by the Local Planning Authority to show further details of the privacy screens, including the extent along both the southern and eastern sides of the balcony, the height of the screens (to be no lower than 1.7 m above the floor level of the balcony), and the materials for the privacy screens. The balcony shall be erected in accordance with the approved details prior to it being first brought into use and thereafter retained and maintained in accordance with the approved details.

Preliminary Matters

2. The description of development set out a lengthy description of the proposed development; it is only necessary for me to record the form of the development for which planning permission is required.
3. The Council has indicated under the Planning History section of its report, that an enforcement case was opened in respect of a replacement window with a glass door which I understand to relate to the glass door in the first floor bedroom facing east. The case was closed as the Council assessed that the change from a window to a door did not require planning permission and I have no reason to take a different view.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the amenities of the occupiers and users of the adjoining property at Lamorna, with particular regard to overlooking and loss of privacy.

Reasons

5. The appeal property is an extended detached dwelling on the east side of the B3195 in a row of detached properties along the east side of the road and to the north of Sandygate. To the immediate south, and at a lower level, is a detached property, Lamorna, which is described by the Council as a residential house, with ancillary tourist accommodation and a commercially used swimming pool in the rear garden. I understand that the indoor swimming pool is well used by the public including children and is used for general swimming as well as swimming lessons.
6. The proposal would create a raised balcony above an existing pergola, leading out from the glazed doors opening out from the rear bedroom closest to the boundary with Lamorna. The submitted plans indicate that the southern side of the balcony alongside the boundary with Lamorna would be in obscure glass.
7. There is already some overlooking of the rear garden of Lamorna from different places at the appeal property, and in particular from the rear bedroom glazed doors. Without any form of obscure glazing to the balcony, or insufficient obscure glazing in terms of length and height, there would be a material and unacceptable increase in direct overlooking of the adjoining property and in particular towards the swimming pool. This would be because of the height of the balcony and the proximity of the balcony to the boundary and to the swimming pool building.
8. I am not satisfied that the proposed arrangements with an obscure glazed panel along the southern boundary only would be sufficient to mitigate the harm I have concluded. Furthermore, the proposed screen along the southern boundary would appear to step down in height which would allow views towards the neighbouring property. Without adequate privacy screens in place, this would unacceptably harm the amenities of the neighbouring property and users of the swimming pool. However, I consider that subject to the imposition of a condition to require details of the obscure screening to be approved, in terms of its height, materials and extent, and thereafter implemented and retained, that the amenities of the neighbours and those using the swimming pool would be protected.

9. I have noted that the Appellant has contended that it is the responsibility of the adjoining property to ensure that there are suitable privacy measures in place particularly in respect of the operation of the swimming pool. However, and notwithstanding that there is already some mutual overlooking between the properties as existing, the creation of the balcony without suitable privacy screens in place would, in my view, materially exacerbate the extent of overlooking towards Lamorna and particularly towards the swimming pool with a resultant material increase in harm to the amenities of the occupiers and users of Lamorna.
10. The Council has indicated that increasing the height of the privacy screens and extending the length of the privacy screens would result in a visually unacceptable feature. However, given the very modest nature of the proposal in relation to the proportions and overall scale of the appeal property, I do not consider that more extensive and higher privacy screens would be unacceptable in appearance; they would not detract from the character and appearance of the existing property and of the local area or create an overbearing appearance. In considering this matter I have taken into account that the site lies within an AGLV and I am satisfied that there would be no adverse effect on the AGLV given its small scale and siting in relation to existing built development.
11. Subject to the imposition of a condition as set out above, I am satisfied that the amenities of the occupiers and users of the adjacent property at Lamorna would not be materially harmed as a result of the proposal. There would be no conflict with Policies S1, S1A and S2 of the Teignbridge Local Plan and paragraph 135 f) of the National Planning Policy Framework, all of which amongst other matters seek to protect the amenities of existing and future occupiers.

Other Considerations

12. The Appellant has raised concerns regarding the manner in which her application was processed by the Council. My assessment is based solely on the planning merits of the proposal and these other concerns would need to be directed to the Council.

Conditions

13. In terms of conditions, the materials, with the exception of the requirement for further details of the privacy screens, should be as specified to respect the character and appearance of the existing property. As set out above a condition shall be imposed to require the submission of further details of the privacy screens to ensure that the amenities of the occupiers and users of the neighbouring property are protected. I shall list the approved plans for the avoidance of doubt and in the interests of good planning, except in so far as they relate to the details of the privacy screens.
14. In order to be effective, it is my view that the condition relating to the revised details of the privacy screens requires to be a pre-commencement condition. In accordance with Section 100ZA (5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, I have therefore requested and received the Appellant's written agreement to the imposition of this condition.

Conclusion

15. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be allowed.

L J Evans

INSPECTOR