



Appeal Decision

Site visit made on 14 November 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2024

Appeal Ref: APP/D1265/D/24/3346080

9 Guernsey Street, Portland, Dorset DT5 1JR

- 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 Dennis Tracey against the decision of Dorset Council.
 - The application Ref is P/HOU/2024/01090.
 - The development proposed is described on the application form as, "Create Balcony to rear on Outhouse roof".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Differing to the description of development in the banner heading above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Install Balcony to rear of Outhouse roof ". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.
3. I note from the appeal documentation and my site visit that the proposed balcony had been partially constructed. For the avoidance of doubt, this appeal decision only relates to the proposed development as shown on the submitted appeal plans.

Main Issues

4. The main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the Underhill Conservation Area; and
 - the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.

Reasons

Conservation area

5. The appeal site comprises 9 Guernsey Street (No 9), a stone-clad 2-storey mid-terrace dwelling, which is located on a sloping plot in a tight-knit residential area. The site is within the Underhill Conservation Area (conservation area) and in this regard the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention

shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

6. As noted in the Appraisal of the Conservation Areas of Portland (as amended 2017) (the Appraisal), the significance of the conservation area, as a whole, as a designated heritage asset is derived in part from its extensive and varied forms of terraced housing which were built during the later Victorian and the Edwardian period due to the need to accommodate a rapidly expanding population, and which incorporate traditional building materials and architectural details. No 9 is noted in the Appraisal as comprising part of an important building group, as an 'Edwardian group defining west side of street', and as such it contributes to the significance of the conservation area mainly through its architectural and historic interest.
7. The proposed development would introduce a balcony directly to the rear of No 9. It would be situated in an elevated position relative to the plots situated beyond the alleyway to the rear of the site. In this prominent location it would stand out as an incongruous feature due to the lack of similar completed structures to the rear of the group of buildings of which it forms a part. It would incorporate a substantial amount of glazing, which would clash with the more traditional materials present on nearby dwellings. Accordingly, it would dilute the architectural and historic interest of the important building group within which it is situated. The significance of the conservation area would be undermined as a result.
8. I observed the examples of completed balconies highlighted by the appellant, which are clustered near to each other to the rear of buildings on Fortuneswell. In contrast, the proposed balcony would appear as an isolated example of such a structure in nearby views. As those examples are not directly comparable with the proposed development, they do not change my findings on this main issue.
9. As the harm to the character and appearance of the conservation area identified above would not extend beyond the local area, the proposed development would cause less than substantial harm to the significance of the conservation area as a designated heritage asset, but nevertheless this harm is of considerable importance and weight. The National Planning Policy Framework (the Framework) advises that such harm should be weighed against the public benefits of the proposed development.
10. The proposed development would enhance the living accommodation available to the present and future occupiers of No 9. However, the social benefit arising from the improvement of the local housing stock would be limited in extent. As a result, little weight has been given to the public benefits of the proposed development.
11. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. The public benefits of the proposed development, identified above, would not outweigh the harm that would be caused to the significance of the conservation area.
12. I therefore find that the proposed development would not preserve or enhance the character or appearance of the conservation area. It would conflict with part i) of Policy ENV4 of the West Dorset, Weymouth & Portland Local Plan 2011-2031 (adopted 2015) (Local Plan) which provides that, amongst other

things, development should conserve and where appropriate enhance the significance of designated heritage assets, and with part i) of Policy ENV12 of the Local Plan which provides that, amongst other things, the general design should be in harmony with the adjoining buildings and the area as a whole.

13. The proposed development would conflict with part iii. of Policy No. Port/EN7 of the Neighbourhood Plan for Portland 2017-2031 (Made Version) (made 2021) which provides that, amongst other things, development proposals will be expected to be of a design which applies the principles set out in the conservation area appraisals where appropriate.
14. The proposed development would also conflict with chapter 16 of the Framework which seeks to conserve and enhance the historic environment.

Living conditions

15. The boundary wall separating 8 Guernsey Street (No 8) from No 9 slopes downwards from the rear of No 8. The proposed balcony would be positioned higher than much of this boundary wall. The balcony itself and its glazing would be in clear view from the patio area to the rear of No 8. At such close proximity to the private amenity area of No 8, it would appear as an obtrusive and overbearing structure in views from that area.
16. Similarly, due to the height of the boundary wall between No 8 and No 9, and the elevated position of the proposed balcony, even taking account of the proposed glazing to the side of the proposed balcony, the users of the balcony would have almost unrestricted views of the private amenity area to the rear of No 8, which is used for sitting out. The proposed development would therefore undermine the pleasantness of the use of the private amenity area to the rear of No 8. Harm to the living conditions of the occupiers of No 8 would result.
17. I observed that views towards the plots situated beyond the alleyway to the rear of the site are already possible from the rear windows of No 9, including from the kitchen window sited directly behind the location of the proposed balcony. Nevertheless, this level of overlooking is generally expected in such a tight-knit residential area, whereas the presence of people outdoors on an elevated balcony would create a much more pronounced perception of being overlooked for the users of the private amenity areas at several of the plots situated beyond the alleyway to the rear of the site.
18. In particular, I observed that the introduction of the proposed balcony would create an undue perception of being overlooked for the users of the patio to the rear of 22 High Street (No 22). This would make the use of that patio area much less pleasant, resulting in harm to the living conditions of the occupiers of No 22.
19. In addition to the proposed obscure glazed screen on the south-east elevation, a planning condition could be imposed to require the glazing on the south-west elevation to be obscure glazed, but this would not prevent views from people standing up on the balcony towards the plots situated beyond the alleyway to the rear of the site. Nor would it prevent the comings and goings on the balcony from being seen by the users of the private amenity areas at No 8 and No 22. Such a condition would not therefore adequately mitigate the harms identified above.

20. I therefore find that the proposed development would have an unacceptable and harmful effect on the living conditions of the occupiers of No 8, with particular regard to outlook and privacy, and on the living conditions of the occupiers of No 22, with particular regard to privacy. It would conflict with part i) of Policy ENV16 of the Local Plan which provides that, amongst other things, development proposals will only be permitted provided they do not have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy, and they do not have a significant adverse effect on the amenity of the occupiers of properties through overbearing impact.
21. The proposed development would also conflict with paragraph 135 f) of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters

22. I observed the balcony at the end of Guernsey Street, referred to by the appellant. At the time of my site visit it appeared to be in an unfinished state. As no plans have been provided relating to that development, its final design, where it ever to be completed, is unclear. As it has not been demonstrated that this example is directly comparable with the proposed development, it does not change my findings on the main issues above.

Conclusion

23. The proposed development would conflict with the development plan when considered as a whole. None of the other considerations in this case, including the private benefit of improved living conditions for the occupiers of No 9, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.
24. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR