



Appeal Decision

Site visit made on 25 March 2025

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2025

Appeal Ref: APP/Q3305/W/24/3349703

Furlong House, Ford Lane, Henton, Wells, Somerset BA5 1PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by M Jackson against the decision of Somerset Council.
 - The application Ref 2024/0259/HSE was approved on 23 May 2024 and planning permission was granted subject to conditions.
 - The development permitted is for a two storey side and rear extension, two single storey rear extensions, raising of roof pitch of main building, front verandah and garden studio building.
 - The condition in dispute is No.4 which states that: *Prior to the occupation of the two storey western extension hereby approved, privacy screening shall be installed, and remain in perpetuity, upon the eastern edge of the first floor roof terrace, details of which shall be submitted to and approved by the Local Planning Authority prior to installation.*
 - The reason given for the condition is: *To protect the residential amenity of the neighbouring residents in compliance with DP7 of the Local Plan.*
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Decision

1. The appeal is allowed and planning permission is granted for two storey side and rear extension, two single storey rear extensions, raising of roof pitch of main building, front verandah and garden studio building at Furlong House, Henton, Wells BA5 1PD in accordance with the terms of the application, Ref 2024/0259/HSE, and the plans submitted with it, subject to the following conditions in the attached schedule.

Applications for costs

2. An application for costs was made by M Jackson against Somerset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. On the appeal form the appellant refers to the Local Planning Authority as Mendip District Council. However, the Council has confirmed that Somerset County Council and the other district councils in Somerset were replaced on 1st April 2023 by a new unitary council, known as "Somerset Council." This is the Council that determined the application and which features on the decision notice. The Council has also confirmed that the Mendip District Local Plan (Parts I and II) still comprise the relevant development plan for the purposes of the appeal.
4. During the course of the appeal the government revised the National Planning Policy Framework (the Framework) in December 2024. This now replaces the previous version (December 2023). However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that

neither party would be prejudiced by my consideration of the revised Framework in reaching my decision.

Main Issue

5. The main issue is the effect that removing condition 4 would have on the living conditions of occupiers of neighbouring property Marlborough House with regard to overlooking.

Reasons

6. The appeal site lies in the village of Henton and comprises a large, detached dwelling (the host property) set in its own spacious grounds. The neighbouring property, Marlborough House, is also a large, detached property with a large garden.
7. On my site visit I saw that building works to the host property had commenced and it was effectively a shell. Although the roof terrace to the first floor bedroom had not been completed, I was able to stand at the position of what would be the window to the western bedroom. I was also able to walk across some scaffolding boards to stand at the far end of the roof terrace and at the location of the intended privacy screen, the subject of condition 4 and this appeal. From here I was able to look out across the garden of the host property and out to the countryside beyond and to look at an angle towards the neighbouring property and garden of Marlborough House.
8. There was a tall evergreen conifer hedge, approximately 2.6 metres high, along the shared boundary between the dwellings. Further into the garden, the boundary became a tall, mature, clipped evergreen laurel hedge. There were also a number of trees on the site close to the boundary, which would provide further screening when in leaf. The appellant's submitted aerial photographs show the layout of Marlborough House with its conservatory and a private patio area to its east side, further away from the host property.
9. From the roof terrace, without the proposed privacy screen in place, I was unable to see the garden lawn of Marlborough House due to the intervening tall boundary hedge. Nor could I see their conservatory, or even its roof, nor the private patio area on the far side of the conservatory. I saw that Marlborough House had a narrow first floor window in its side elevation and a first floor rear window, but I was not able to look into the rooms they served. Hence, I had no direct views of rooms or the private outside spaces of Marlborough House. Any views towards Marlborough House from the roof terrace were oblique.
10. The roof terrace is on the opposite side of the host property to Marlborough House, some 30 metres away from the shared boundary. This is a considerable distance. It is more than the 21 metre separation distance between facing windows of habitable rooms that many Councils often use as a 'rule of thumb'. I saw my views towards Marlborough House were distracted by looking across the host property's own proposed green roof and zinc roof over the single storey extension (not completed when I visited) before looking towards the intervening boundary hedge.
11. From my site visit observations anyone standing on the roof terrace, which is served off a bedroom and not a main reception room, would most likely look straight ahead across the appellant's own garden and to the countryside beyond,

and any views towards Marlborough House would be oblique and would likely be incidental. If sitting down on the roof terrace, any views towards Marlborough House would be virtually non-existent due to the surrounding walls there would be around the terrace, even without a privacy screen. In any event, a privacy screen would not prevent anyone leaning over the end of the roof terrace and looking around the privacy screen, but they would see what I saw on my visit. From my understanding, when the Council made its decision it did not have the benefit of standing on the roof terrace and the views I did, nor did it have the benefit of the appellant's cross-sectional sightlines plan submitted with the appeal.

12. The height and thickness of the hedge currently provides a good means of screening between the properties. I appreciate that the height of the hedge could vary and hedges can die. I have no details as to whose responsibility the boundary is, but the appellant advises that the boundary hedge is currently maintained by both properties. I saw that it was neat and tidy and appeared well-maintained. It provides mutual privacy to both properties. It is unlikely, in my view, that either property would leave such a long boundary unscreened, and there is nothing to stop either property erecting a fence or wall on their side up to 2 metres in height under permitted development.
13. To conclude, from my observations standing on the roof terrace I am satisfied that that the erection of a 1.8m high privacy screen along the eastern edge of the roof terrace would serve little useful purpose. Without the privacy screen, as was the case on my site visit, for the reasons set out above there would be no direct overlooking, no significant loss of privacy and thus no harm to the living conditions of occupants of Marlborough House. To allow the property to be extended in the manner approved without condition 4 would not conflict with Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029, which seeks, amongst other things, to protect the amenity of users of neighbouring buildings and land and provide a satisfactory environment for current occupants.
14. Hence, I am satisfied that the requirement to erect a 1.8 metre high privacy screen as directed by condition 4 is not necessary and condition 4 can be removed.

Conditions

15. By allowing the appeal I am varying the original permission by removing condition 4. The original planning permission and this decision should therefore be read together.

Conclusion

16. For the reasons set out above I conclude the appeal should be allowed.

K Stephens
INSPECTOR

SCHEDULE OF CONDITIONS

1) Plans

The development hereby permitted shall be carried out in accordance with the following approved drawings: 1010.S.000; 1010.S.001; 1010.S.002; 1010.S.003; 1010.S.004; 1010.S.005; 1010.S.006; 1010.P.001 Proposed Block Plan; 1010.P.001 Proposed Site Plan; 1010.P.002; 1010.P.003; 1010.P.005; 1010.P.006; 1010.P.007 Proposed Plans and Elevations of Workshop Building.

2) Ancillary Use

The garden studio building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Furlong House and shall not be occupied as an independent unit.

End of conditions