



Appeal Decision

Site visit made on 10 June 2025

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th June 2025

Appeal Ref: APP/P2114/W/25/3360039

Mariners Lodge, Bouldnor Road, Shalfleet, Isle of Wight PO41 0UR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by John Veal against the decision of Isle of Wight Council.
 - The application Ref is 24/00948/RVC.
 - The application sought planning permission for a two storey extension without complying with a condition attached to planning permission Ref 22/01002/HOU, dated 3 August 2022.
 - The condition in dispute is No 3 which states that:
Prior to the development hereby approved being brought into use, the first floor window on the east elevation, as shown on the submitted plans to serve the office, shall be fitted with obscure glass. The window shall be retained as obscure glazed thereafter.
 - The reason given for the condition is:
In the interests of the privacy of the neighbouring property occupiers and to comply with policy DM2 (Design Quality for New Development) of the Island Plan Core Strategy.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted for a two-storey extension, which has been completed and occupied. The appeal seeks permission to carry out the development without complying with condition 3, which requires obscure glazing to be installed in the first-floor window on the east elevation of the extension. The main issue is the effect that removing the condition would have on the living conditions of the occupants of Solent Edge, with regard to privacy.

Reasons

3. Mariners Lodge is a two-storey dwelling that fronts the A3054 just to the east of Yarmouth. It is one of a long row of detached dwellings that look out over the road to the Solent beyond. The dwellings vary considerably in scale, form, and design, but many have large windows and balconies to take advantage of the sea views. There are two-storey houses to either side of Mariners Lodge. Hampton House to the west is separated by the width of two driveways, but there is little space between Mariners Lodge and Solent Edge to the east. Both of these houses have been extended to the rear.
4. The two-storey extension at Mariners Lodge has squared off a previous recess at the back of the building close to the boundary with Solent Edge. It has provided a first-floor office above a previous conservatory, and has a three-paned window in

its rear elevation overlooking the back garden. There is also a circular window in the side elevation looking towards Solent Edge, which is the subject of this appeal. The glass in the window is clear, but the evidence indicates that an obscure film has previously been applied to the window, which was removed prior to my visit to allow me to assess the level of overlooking if I were to allow the appeal.

5. The window in the rear elevation provides an open outlook for occupants of the relatively small office, and allows views over a large part of the back garden of Solent Edge. However, as the extension projects further back than the adjacent dwelling, it is not possible to see any of the windows in the side or rear of Solent Edge, or the patio that runs along the back of the house. Apart from the window in question, the only other windows in the side elevation of Mariners Lodge are an obscure glazed stairwell window and a circular ground floor window, which is below the level of an intervening garden building. Consequently, with obscure glazing in the subject window, occupants of Solent Edge would not be seen within their house, or on the patio immediately to the rear, from within Mariners Lodge.
6. The circular office window allows views down and across almost the entire patio area at the rear of Solent Edge, from a point close to the boundary. Removal of the condition would, therefore, mean that occupants of Solent Edge could be overlooked in this area from a commanding position. The patio area immediately adjacent to the house is often the most-used area in a garden and the focus of relaxation. Whilst a level of overlooking is inevitable in a residential area with two-storey buildings, a degree of privacy in the area immediately outside the back of the house is not an unreasonable expectation. Removal of the condition would result in a loss of privacy for occupants of Solent Edge in this area, so the proposal would be harmful to their living conditions.
7. The window also looks towards the side elevation of Solent Edge, which has a clear-glazed first floor kitchen window at a similar level. Although they are not directly opposite each other, the windows are only about six metres apart, which is much closer than would normally be expected in order to maintain a reasonable degree of mutual privacy. Looking out of the window, I was able to observe a person within Solent Edge. Whilst I was not able to see very far into the room, this may not be the case at other times of the day when lighting conditions are different, or in the evening when the room is internally lit. In any event, it is clear that removal of the condition would reduce privacy for occupants within Solent Edge to a harmful degree.
8. I am mindful that the Council did not impose a condition requiring the kitchen window of Solent Edge to be obscure glazed when planning permission was granted for extensions and alterations in 2013. However, the evidence indicates that this window was already in existence at the time, and that the proposal reduced the overall level of mutual overlooking through the removal of another side-facing window and a section of balcony. It would, therefore, have been unreasonable for the Council to impose such a condition at that time. Furthermore, as the kitchen window is set back from the rear elevation, it does not look down over the patio areas immediately outside the back of Mariners Lodge. Consequently, it does not result in the same harmful degree of overlooking. The existence of this window does not, therefore, alter my conclusions on the reasonableness and necessity of the condition relating to the office window.

9. It is contended that the Council failed to have regard to case law, including the Supreme Court Judgment in *Fearn and others v Board of Trustees of the Tate Gallery*¹. However, I have not been provided with any commentary on how that Judgment, relating to a claim based on the common law of private nuisance, should affect my consideration of this case. I have not, therefore, been able to give it any weight in my decision.
10. In view of the above considerations, I conclude that removal of the condition would harm the living conditions of the occupants of Solent Edge through the loss of privacy within their house and garden. The proposal would, therefore, be contrary to Policy DM2 of the Core Strategy², which seeks to ensure that development proposals provide an attractive, functional, accessible, safe, and adaptable built environment.

Conclusion

11. For the reasons given above the appeal should be dismissed.

Nick Davies

INSPECTOR

¹ Fearn and others v Board of Trustees of the Tate Gallery [2023] UKSC 4, 2023 WL 01424017

² Island Plan: The Isle of Wight Council Core Strategy (including Minerals & Waste) and Development Management Policies DPD (adopted March 2012)