
Appeal Decision

Site visit made on 22 August 2018

by John D Allan BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2018

Appeal Ref: APP/X1735/D/18/3204190

Fair Acre, Church Lane, Hayling Island, PO11 0SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Margaret D'Alton-Harrison against the decision of Havant Borough Council.
 - The application Ref APP/18/00134, dated 2 March 2018, was refused by notice dated 25 May 2018.
 - The application sought planning permission for alterations to roof without complying with a condition attached to planning permission Ref APP/16/00993, dated 23 November 2016.
 - The condition in dispute is No 3 which states that: *Notwithstanding the provisions of any Town and Country Planning (General Permitted Development) Order 2015, prior to first occupation of the extension hereby permitted the windows in the first floor on the rear elevation facing west shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) and be fixed shut (non-opening) and retained as such thereafter. The bathroom window on the south elevation at first floor shall be fitted with textured glass which obscuration level is no less than Level 4 of the Pilkington Texture Glass scale (or equivalent) and retained as such thereafter.*
 - The reason given for the condition is: *In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.*
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of either removing or varying the condition upon the living conditions of adjoining occupiers with regard to privacy.

Reasons

3. The roof alterations that were permitted by planning permission Ref APP/16/00993 have been constructed and amount to the addition of first floor accommodation to the south side of the dwelling. Despite the large size of the plot, the dwelling is positioned reasonably close to its south and west boundaries. These both adjoin the curtilages and rear gardens of Sunnyfields and Church Cottage respectively although in the case of the latter the connection is at a single pinch-point, with a wedge-shaped incursion of

- curtilage belonging to Church Farm to the north separating the majority length of the adjacent boundaries between Fair Acre and Church Cottage.
4. The appeal relates to a condition that seeks to control the glazing to a bedroom window facing west and a bathroom window facing south. I have noted suggestions from some third parties that the design and proportions of the windows that have been constructed are different to those on the approved application drawings although any differences appeared minor. Furthermore, the windows that have been installed were of similar size and appearance to those on other parts of the dwelling such that the extension overall appeared well related to the building without any harm to the character or appearance of the area. I am satisfied that the style of windows on the extension adequately preserve the character of the St Peter's Conservation Area, within which the site is located.
 5. The separation distances between the facing elevations of the extension and Church Cottage and Sunnyfields far exceed the minimum of 20m that is given within the Borough Design Guide Supplementary Planning Document December 2011. The potential for any loss of privacy within either of the adjoining dwellings would therefore be minimal. Nevertheless, I accept that due to their proximities to the site's boundaries, the windows in question have the potential to give sight over parts of the rear gardens to both Church Cottage and Sunnyfields. Whilst I saw some dense and mature vegetation within the curtilage of Fair Acre adjacent to the west and south boundaries, I am conscious that during the winter months some of the extent of leaf cover would be diminished. Furthermore, neither the longevity nor the effectiveness of any screening could be guaranteed in the longer term. In these circumstances, and given particularly the generally secluded and tranquil nature of the gardens to the properties more broadly within this part of the conservation area, I consider a condition which would mitigate any overlooking of adjacent gardens to be necessary.
 6. The windows have multiple panes separated with horizontal and vertical glazing bars. I saw that an individual piece of film has been applied to each pane which obscures sight from within both rooms. In some instances the film did not extend right up to the glazing bars but any sight through the uncovered parts of the glass was extremely limited and possible only with close scrutiny. Ordinarily, the film that has been applied effectively obscures sight of the neighbouring gardens.
 7. However, unlike a manufactured piece of obscured glass, I am concerned that the applied film could degenerate over time, become scratched, or otherwise peel away from the glass. I have no details of its manufacture, performance capabilities, or longevity. I am therefore not persuaded that it would remain effective. Although a condition could be worded to require an obscure glazed film to be retained, this would not be precise enough to clearly mark a point in time where replacement film would be obviously needed.
 8. I am also aware that, at the time of my visit, the side casements to the west facing window were openable. Their fixing mechanisms amounted to a lock on the handles to each window, which is common for most modern window frames. There was nothing specific that would prevent the windows from being opened on a day-to-day basis. Neither have I been provided with any details

of an alternative mechanism for restricting the opening to demonstrate that sight towards the rear garden of Church Cottage would be prevented.

9. I have noted suggestions that maintaining the bedroom windows fixed would prevent any acceptable degree of ventilation for the room and that emergency access would be compromised. However, I have been provided with no substantive evidence to support these views or to confirm that alternative means of ventilation or escape are not possible.

Conclusion

10. Based upon my observations on site, and the information that is available to me, I find that removing condition 3 would provide the opportunity to give sight from the development into neighbouring gardens. This would have the potential to detract from levels of privacy that the neighbouring occupiers might reasonably expect to enjoy within their gardens. As such it would conflict with part 1 e) of Policy CS16 of the Havant Core Strategy 2011 which seeks to avoid unacceptable harm to the amenity of neighbours through, amongst other things, the loss of privacy. It would also conflict with the National Planning Policy Framework insofar as it seeks to create places that have a high standard of amenity for existing and future users.
11. I have carefully considered whether the condition could be modified to allow retention of the applied film but for the reasons given I consider that this would not adequately safeguard the living conditions of the adjoining occupiers. Accordingly, and having regard to all other matters raised, the appeal is dismissed.

John D Allan

INSPECTOR