
Site Address: Land rear of 42 Church Road, Hayling Island
Proposal: Variation of Condition 15 of Planning Permission APP/12/01170 to vary approved plans relating to the addition of solar panels and changes in the fenestration to the north elevation in respect of Plot 1.
Application No: APP/13/00974 Expiry Date: 10/12/2013
Applicant: Mrs T Thomas Team: Team 1
Agent: Mr J Adams Case Officer: Richard Nash
Ward: Hayling East

Recommendation: **REFUSE PERMISSION**

1 Site Description

The application site comprises a large two storey dwelling of brick and tile finish, currently under construction on a generous plot to the rear of 42 Church Road, which is located on the east side of the road, between its junctions with Kings Road and Pepper Close. The area is predominantly characterised by low to medium residential development, although a scout hut is located to the north of the site (off Kings Road), and an extensive educational establishment a little to the south.

2 Planning History

APP/12/01170: Construction of 1 No. 3 bed chalet bungalow and 1 No. 2 bed bungalow with detached shared garage and associated parking and landscaping. Approved.

APP/13/00310: Discharge of Conditions 2, 6, 7, 8, 9, 10 and 13 of Planning Permission APP/12/01170. Approved.

APP/13/00324: Variation of Condition 15 of Planning Permission APP/12/01170 to vary approved plans to show addition of solar panels. Approved.

3 Proposal

The current application proposes a variation of Condition 15 of the approval granted under APP/12/01170, in order to vary the approved plans for the dwelling through the addition of solar panels and a changed fenestration detail in the north elevation (the latter comprising the use of clear and opening glazing in place of obscure fixed glazing, to a first floor window).

4 Policy Considerations

National Policies
National Planning Policy Framework

Core Strategies 2011 forming part of the HBLDF

CS14 (Efficient Use of Resources)
CS16 (High Quality Design)

Listed Building Grade: Not applicable
Conservation Area: Not applicable

5 Statutory and Non Statutory Consultations

None

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 15

Number of site notices: 1

Statutory advertisement: Not applicable

Number of representations received: None

7 Planning Considerations

The principle of the installation of solar panels and a first floor window to the north elevation of the dwelling has been established through previous planning permissions. Therefore, having regard to the relevant policies of the development plan, it is considered that the main issues arising from this application are:

- (i) Impact on application site and locality
- (ii) Impact on neighbouring amenities

(i) Impact on application site and locality

It was previously considered that the introduction of solar panels to the south facing roof of the dwelling would not have a detrimental impact on the character and appearance of the application site or wider locality. The Applicant explains that the now proposed arrangement of solar panels is necessary in order to comply with the Code for Sustainable Homes. It is considered that this arrangement would not materially increase the degree of impact on amenities. It is also considered that the proposed change of glazing would not have a detrimental impact on the character and appearance of the application site or wider locality.

(ii) Impact on neighbouring amenities

It was previously considered that the introduction of solar panels to the south facing roof of the dwelling would not have a detrimental impact on the amenities of occupiers of neighbouring properties. It is again considered that the currently proposed arrangement would not materially increase the degree of impact in this respect.

There are no changes proposed to the position, shape or scale of the first floor window to the north elevation, which is indicated as serving a study on the submitted

drawing. The obscured and partially fixed glazing of this window was originally proposed by the Applicant, as opposed to being suggested by the Council, and there appears to be no practical justification for its being clear glazed and opening.

The Applicant's view is that the clear glazing of the window (which has taken place during construction of the dwelling) does not result in an overlooking issue. It is claimed that the window to a bedroom on the west elevation has the same aspect in part, but no obscure glazing is required to that window. Furthermore, the Applicant is of the opinion that if obscure glazing is applied to the study window solely in order to comply with Condition 15 of APP/12/01170, there would be no obligation for the window to be retained in this condition and it could therefore be clear glazed at a later date, without the need to obtain consent from the Council.

During the application process, visits were made to the application site, the adjoining dwelling to the north (44 Church Road) and the scout premises to the north east. As the clear glazed and opening window is in situ, it was possible to make a precise assessment as to the degree of overlooking that it provides.

Views of the rear elevation of the dwelling and a part of the rear garden at 44 Church Road are at an angle and obscured to some extent by a tree. However, the window provides clear and uninterrupted views in to and across an extensive part of the rear garden of this property. The reference to the window on the west elevation having the same aspect in part does not bear scrutiny, as this principally relates to the side glazing panels of a bay window and views from the front panels are at an angle and principally towards the dwelling rather than the rear garden. Furthermore, the clear glazed north elevation window provides significant (albeit partially screened) views in to the windows of number 46 Church Road and the curtilage and windows of the adjacent scout premises. For these reasons the clear glazing of the window is considered, by virtue of the resultant overlooking, to have a detrimental impact on the privacy and amenities of occupiers of neighbouring properties, in particular 44 Church Road.

Notwithstanding this, the Applicant's views on a 'fall back' position must also be considered. It is assumed the claim that the window could be clear glazed at a later date, without the need to obtain consent from the Council, is reliant on permitted development rights for completed dwellings. It is considered that the replacement of glazing to an existing window of a dwellinghouse would constitute an 'improvement or alteration' to that dwellinghouse. The relevant permitted development rights would thus be set out in Schedule 2, Part 1, Class A to The Town and Country Planning (General Permitted Development) Order 1995 (as amended). This Class allows the enlargement, improvement or other alteration of a dwellinghouse to be carried out without the need to obtain express planning permission, subject to certain criteria and conditions.

To this end, condition A3(b) requires that any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. In other words, in order to benefit from permitted development rights, any replacement glazing would have to be similar to that originally proposed by the Applicant and required to be installed under condition 15 of APP/12/01170.

8 Conclusion

The variation of Condition 15 of the approval granted under APP/12/01170, in order to vary the approved plans for the dwelling through the addition of solar panels and the use of clear opening glazing in place of obscure fixed glazing to a first floor window in the north elevation would be acceptable in principle. The proposals would not have a detrimental impact on the character and appearance of the application site or wider locality, and the proposed solar panels would not have a detrimental impact on the amenities of occupiers of neighbouring properties.

However, the clear glazing of the window, by virtue of the resultant overlooking, has a detrimental impact on the privacy and amenities of occupiers of neighbouring properties, in particular 44 Church Road. The development therefore causes unacceptable harm to the amenity of neighbours and is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework, March 2012.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **REFUSE PERMISSION** for application APP/13/00974, for the following reason:

- 1 The clear glazing of the first floor window to the north elevation, by virtue of the resultant overlooking, has a detrimental impact on the privacy and amenities of occupiers of neighbouring properties, in particular 44 Church Road. The development therefore causes unacceptable harm to the amenity of neighbours and is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework, March 2012.