Appeal Decision

Site visit made on 11 November 2009

by Megan Thomas BA Hons in Law, Barrister

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
1 December 2009

Appeal Ref: APP/Y3805/A/09/2109169
42 Old Fort Road, Shoreham Beach, Shoreham-By-Sea BN43 5RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Martin Issacs against the decision of Adur District Council.
- The application (Ref ADC/0066/09), dated 14 February 2009, was refused by notice dated 17 April 2009.
- The development proposed is an extension to an existing garage and the erection of a first floor rear balcony.

Decision

1. I allow the appeal and grant planning permission for an extension to the existing garage and the erection of a first floor rear balcony at 42 Old Fort Road, Shoreham Beach, Shoreham-By-Sea BN43 5RJ in accordance with the terms of the application Ref. ADC/0066/09 dated 14 February 2009, and the plans submitted therewith (numbered 457/01 & 499/01A), subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) Samples of the materials to be used in the construction of the external surfaces of the garage extension hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

   3) Subject to the development hereby permitted, the roof of the building which houses the indoor swimming pool shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority.

Procedural Matters

2. The Council indicate that they have no objections to that part of the development which comprises an extension at ground floor level to an existing garage on the western side of the property. Furthermore, there are no third party objections to the proposed scheme of alteration to the garage. I am satisfied that there would be no planning harm arising from the development of the garage as proposed and accordingly the reasons section of my decision letter deals solely with the scheme for the proposed balcony.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of the occupants of 40 and 44 Old Fort Road with regard to privacy.

Reasons

4. 42 Old Fort Road is a detached two storey dwelling situated on the south side of the road. Its rear elevation faces Shoreham beach and the sea. It has a large single storey extension at ground floor level with a flat roof which is situated on the western side of the rear garden and houses an indoor swimming pool.

5. The proposed balcony would extend in an L-shape along the rear of the dwelling at first floor level. The widest part of the balcony would be outside the existing study and would extend about 6 metres from the study door out onto the flat roof of the swimming pool. There would be screens at each flank end of the proposed balcony to a height of about 1.8m.

6. The appeal site is situated in a row of dwellings which are generally two-storeys high. Many have balconies at first floor level to take advantage of views of the beach and the sea. The building line of the main rear elevations of the dwellings is not straight. Some houses are nearer to the sea than others.

7. 42 Old Fort Road has an extant planning permission for a "front/side extension to garage and first floor rear balcony (partially on posts) with 1.8m high side screens" (Ref ADC/0169/09). This was granted on 17 June 2009. I consider that that planning permission represents a fallback position in planning terms because there is a real likelihood that the appellant would implement that planning permission if the appeal scheme failed to secure permission.

8. In respect of the scheme before me, whilst it is unlikely that the conservatory at 44 would be overlooked by the users of the proposed balcony, there would be some potential for overlooking of its garden. However, given that there would be a gap of about 2 metres between the balcony and the boundary of 44, and a 1.8m high obscurely-glazed screen, I do not consider that the loss of privacy would be unacceptable. The effect on the occupants with respect to privacy would be broadly similar to the effect of the extant permission.

9. In respect of 40 Old Fort Road, there would be a gap between the western end of the balcony and the common boundary with the appeal site. There would be the potential for some overlooking of a large part of the garden area but this would be substantially mitigated by the obscurely-glazed screen at the flank end. The predominant view from the proposed balcony would be towards the sea and not towards other rear gardens. All these factors lead me to conclude that the loss of privacy for the occupants of 40 Old Fort Road would not be unacceptable.

10. In addition to privacy issues I have considered whether there would be undue loss of outlook for the occupants of the adjoining properties caused by the appeal scheme, and I consider that the balcony development would not result in a feeling of enclosure for any neighbour nor would it have an overbearing appearance.

11. I conclude therefore that there would be no unacceptable harm to the living conditions of the occupants of 40 or 44 Old Fort Road with regard to privacy and the proposal would not be in conflict with policy AH7 of the Adur District Local Plan (1996) or Supplementary Planning Guidance *Extensions and Alterations to Dwellings*.

Conditions

12. I have considered the imposition of conditions with Circular 11/95 *The Use of Conditions in Planning Permissions* in mind. In the interests of maintaining privacy for current and future neighbours, I have imposed a condition which ensures that there shall be no use of the balcony until the flank end screens are erected, and the screens shall remain permanent features. They are shown as obscurely-glazed on the approved plans so do not need a specific condition to secure that aspect of the development.

13. With the privacy of neighbours in mind, I have imposed a condition which ensures that the remainder of the roof of the swimming pool building shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the local planning authority.

14. In order to protect the character and appearance of the area, I have imposed a condition requiring materials to be used in the external surfaces of the garage development to be submitted and approved and used in the development.

Conclusion

15. Having considered all other representations made, including those from the occupants of 55A Old Fort Road, I allow the appeal.

Megan Thomas

INSPECTOR