



Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 28/08/19

gan Hywel Wyn Jones BA(Hons) BTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 10.10.2019

Appeal Decision

Site visit made on 28/08/19

by Hywel Wyn Jones BA(Hons) BTP
MRTPI

an Inspector appointed by the Welsh Ministers

Date: 10.10.2019

Appeal Ref: APP/E6840/A/19/3231686

Site address: 26 St George Road, Chepstow, NP16 5LA

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Jon Lewis against the decision of Monmouthshire County Council.
 - The application (ref: DM/2019/00027), dated 1 January 2019, was approved on 14 March 2019 and planning permission was granted subject to conditions.
 - The development permitted is *Completion of existing wooden structured conservatory on the rear balcony of the house: New build - extending part of the current balcony at the rear of the house to incorporate a Juliette balcony to give a walkway (Appox 70cm wide) to front conservatory.*
 - The conditions in dispute are Nos 3, 4 and 5 which state that:
 3. *The windows to the wooden structured conservatory and log cabin along the eastern elevation shall be obscure glazed and non opening within one month from the date of this permission and retained in perpetuity.*
 4. *Details of the privacy screen to be erected along the eastern boundary and the end of the balcony extension shall be submitted to and approved in writing to the Local Planning Authority.*
 5. *A privacy screen shall be erected along the eastern boundary balcony and to the end of the balcony extension within 2 month of the date of this permission and shall be retained in perpetuity.*
 - The reasons given for the conditions are:
 3. *To protect local residential amenity and to ensure compliance with LDP Policies DES1 and EP1.*
 4. *In the interests of visual amenity in accordance with Policy DES1 and EP1 of the Monmouthshire Local Development Plan.*
 5. *To protect local residential amenity in accordance with Policy EP1 of the Monmouthshire Local Development Plan.*
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Decision

1. The appeal is allowed and the planning permission ref: DM/2019/00027 for completion of existing wooden structured conservatory on the rear balcony of the house: New build - extending part of the current balcony at the rear of the house to incorporate a Juliette balcony to give a walkway (Appox 70cm wide) to front conservatory at 26 St George Road, Chepstow, NP16 5LA granted on 14 March 2019 by Monmouthshire County Council, is varied by deleting conditions 3, 4 and 5.
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Preliminary Matters

2. Although the grounds of appeal suggest that conditions 3, 4, 5 and 6 are appealed, as the permission contains only 5 conditions I have dealt with the appeal on the basis that the reference to No. 6 to have been in error.
3. During my site visit I noted that the side windows of the conservatory facing the neighbouring property of No. 28 were coated on the inside of the glass by a film that obscured views. One of the windows units appeared to have been designed to open but its handle had been removed to prevent its opening. A tall trellis containing translucent plastic sheets had also been erected along the side boundary of the balcony between the conservatory and No. 28 and, facing the same direction, a tall trellis had been erected on the side of the balcony that projects rearwards from the conservatory. Whilst these works appear to be directly relevant to the conditions in dispute, they have not influenced my determination of the appeal.

Main Issue

4. The main issue is whether the disputed conditions are reasonable and necessary having regard to the privacy of neighbouring residents.

Reasons

5. The appeal property lies within a row of detached dwellings that sit within plots that fall steeply away from their roadside frontage. The dwelling appears to have been altered by several, mainly timber, additions including the subject balcony and conservatory.
6. The Council's concerns and that of a neighbour relates to the potential for overlooking of No. 28 from the approved additions. No. 28 has a large rear balcony at a similar level to that of the appeal property. Whilst there are narrow horizontal timber boards along its side facing the appeal site it does not effectively screen views.
7. My visit confirmed that the rear of No. 28 is overlooked by a side window serving a sitting room within the appeal property which adjoins the subject conservatory. More significantly, the pre-existing walkway/balcony on which the conservatory has been erected would also have provided the same views over the neighbouring property as afforded from the conservatory. The rear of the neighbouring property is also overlooked from a rear balcony to a dwelling that adjoins its other side boundary.
8. Given the above context, I find that the degree of overlooking afforded by the new balcony and the windows of the conservatory does not materially affect the level of privacy afforded to the occupants of No. 28. I therefore consider that the 3 conditions are unreasonable and unnecessary. Their removal would not conflict with Policies DES1 and EP1 of the Monmouthshire Local Development Plan which require development to maintain reasonable levels of privacy for neighbouring properties.
9. In reaching my findings I have noted the Council's reference to the conditions imposed by A.3(b) of Class A, Part 1 of the Schedule to The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2013. The requirements that it imposes for the use of non-opening and obscure glazed windows on extensions close to neighbouring dwellinghouses relate only to the exercise of permitted development rights. As the works in this instance require express planning permission the standard conditions imposed by the Order do not apply and I have determined the need to impose the disputed conditions on the individual circumstances of this case.

Conclusions

10. For the above reasons, and having taken into account all other matters raised in objection, I find that the appeal should be allowed. No alternative conditions have been suggested and I am satisfied that none are required.
11. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

Hywel Wyn Jones

INSPECTOR