



Appeal Decision

Site Visit made on 26 October 2021

by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 09 November 2021

Appeal Ref: APP/B9506/W/21/3274681

Rookery Nook, South Lane, Nomansland SP5 2BZ

- 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 Mrs Emma Smith against the decision of New Forest National Park Authority.
 - The application Ref 21/00108, dated 2 February 2021, was approved on 6 April 2021 and planning permission was granted subject to conditions.
 - The development permitted is for replacement raised decking, balustrade and steps.
 - The condition in dispute is No 1 which states that: "*Within one month of the date of this decision the privacy screen detailed within DR1 REV B shall be implemented in full in accordance with the submitted details and shall be retained for the lifetime of the development*".
 - The reason given for the condition is: "*The increased size of the decking gives rise to a significant increase in both actual and perceived overlooking towards the neighbouring property and a screen to protect the privacy of the occupants of the neighbouring property would therefore be required. This would enable the development to be considered compliant with Policy DP2 of the New Forest National Park Local Plan*".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the disputed condition is reasonable and necessary in the interests of protecting residential amenity.

Reasons

3. The appeal property is a two storey house located within South Lane. Located west of the appeal property and across from a narrow trackway which separates the sites, is the two storey property at Talsarn, and which is significantly set down at a lower ground level than the rear of Rookery Nook and its associated rear garden area.
4. The submissions before me indicate that whilst the New Forest National Park Authority (the NPA) found that the proposed raised decking, balustrade and steps at the appeal site would not have a harmful effect on the character and appearance of the surrounding area, the proposal would have resulted in significant overlooking and loss of privacy for residents at Talsarn and in particular with regards to the use of the rear external amenity space at that neighbouring property. In that respect and following amendments to the original plans, the proposal included the provision of a privacy screen which the NPA agreed would be of sufficient height so as to avoid unacceptable

- overlooking and loss of privacy for residents at the above identified neighbouring property.
5. In essence, the Appellant has put it to me that the disputed condition should be removed and replaced with a condition that requires the provision of a privacy screen of lesser height at the western end of the raised deck area. In this regard, it is proposed that the existing privacy screen be reduced from a height of 1.8 metres with an additional 300mm of trellis on top, to a height of 1.5 metres whilst retaining the additional 300mm of trellis on top. It is maintained that the current height of the privacy screen interrupts views of the New Forest from the kitchen, conservatory and patio doors at the rear of the appeal property.
 6. From the evidence before me and from observations made on my visit, whilst the proposed reduced height of the privacy screen would help ensure that downward views to the rear of the neighbouring dwelling from inside the kitchen, conservatory and patio doors at the rear of the appeal property would be screened, people standing and gathering on the raised deck area would still be able to see down and across the rear amenity area and garden space at Talsarn. Given the proximity to the identified neighbouring dwelling and due to the elevated position of the raised deck area, such overlooking would be unacceptably intrusive for existing and future residents of that neighbouring dwelling.
 7. Whilst I note from the Appellant's submissions that the permitted privacy screen would interrupt some views from the kitchen, conservatory and patio doors at the rear of the appeal property, it is well established that there is no right to a view within the planning system. Nonetheless, I have also considered whether the height of the privacy screen would unacceptably harm the living conditions of residents at the appeal property with regards to loss of outlook or unacceptable loss of light. In these regards, and in the absence of evidence to the contrary, given that the raised deck area at the site provides open views to the south, I find that the existing height of the privacy screen would not have a harmful impact on the living conditions of future residents with regards to loss of outlook or loss of light.
 8. In consideration of the above, I find that the NPA is correct in its imposition of a condition requiring that the development be carried out in accordance with the plans which include the provision of a privacy screen up to a height of 1.8 metres with an additional 300mm of trellis on top. The condition is reasonable and necessary in the interests of protecting the living conditions of the future occupants of the neighbouring dwelling at Talsarn with particular regard to overlooking and privacy.
 9. The condition is relevant to planning and to the development, and is sufficiently precise, enforceable and reasonable in all other respects. The condition is required in accordance with the parts of Policy DP2 of the New Forest National Park Local Plan (2019) which, amongst other things, expects that development would not have an unacceptable adverse impact on amenity in terms of overlooking. The disputed condition also accords with paragraphs 55 and 56 of the National Planning Policy Framework (July 2021) and with the advice contained in the Planning Practice Guidance.

Conclusion

10. For the reasons given above I conclude that the appeal should be dismissed.

Mr A Spencer-Peet

INSPECTOR