

2.7 REFERENCE NO - 17/505078/FULL			
APPLICATION PROPOSAL Add privacy screening to east and west sides of existing first floor parapet to overall height of 1.8m and add access doors within two existing window aperture widths, to create rear balcony.			
ADDRESS Bayshore 84 Scarborough Drive Minster-on-sea Sheerness Kent ME12 2NQ			
RECOMMENDATION GRANT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION The proposed development would not give rise to significant harm to visual or residential amenity that would justify refusal			
REASON FOR REFERRAL TO COMMITTEE Applicant is a member of staff			
WARD Minster Cliffs	PARISH/TOWN Minster-On-Sea	COUNCIL	APPLICANT Mr Tony Potter AGENT
DECISION DUE DATE 07/12/17	PUBLICITY EXPIRY DATE 10/11/17		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/05/1166	Proposed ground and first floor extensions with new roof structure	Approved	8/2/06

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 84 Scarborough Drive is a large, detached house, located within the built up area of Minster. Originally a bungalow, the extensions and alterations carried out to the property were granted planning permission under reference SW/05/1166 in early 2006.
- 1.02 The property has a single storey rear extension, with a sunken flat roof with pitched roof elements to each side.
- 1.03 In 2006, it became apparent that the development at the site was not proceeding in accordance with the approved plans. Specifically, the openings above the roof to the single storey extensions had been constructed for doors giving access to this roof area, instead of the approved windows.
- 1.04 Following discussions with Officers, the owner agreed to build the openings in accordance with the approved plans, as it was clear that the use of this roof as a balcony would have significantly overlooked the private amenity spaces of the dwellings to either side. Once this had occurred, the Council secured an Article 4 Direction, removing permitted development rights for alterations to these openings, to give the Council control over any future, similar works, to enable an assessment to be made of the impact of the use of the flat roof as a balcony.

- 1.05 As referred to above, the flat roof area, if used as a balcony, without sufficient screening, would give rise to substantial and harmful overlooking of the entire rear gardens of the dwellings either side.

2.0 PROPOSAL

- 2.01 The owner of the property has now applied to replace the existing rear facing windows with doors, and to erect obscuring screens to the east and west sides of the roof, projecting the entire length of the roof, and measuring 1.8 metres high from the finished floor level.
- 2.02 The existing single storey extension projects a total of 5.85 metres to the rear of no.84, although of this, only 4 metres is a flat roof. It projects 12 metres beyond the rear of no.70 Scarborough Drive, lying just under a metre from the boundary with this dwelling, although the flat roof area lies 3 metres from this boundary, projecting 10 metres to the rear. There is a change in levels between the application site and no.70, with the garden at no70 lying appreciably lower than the dwelling at no.84.
- 2.03 The rear extension projects by 7.2 metres beyond the rear of no.86 to the east of the application site, lying 6.6 metres from the boundary, although the flat roof area projects by just over 5 metres to the rear of no.86, lying just over 8 metres from this boundary.

3.0 POLICY AND OTHER CONSIDERATIONS

- 3.01 The following Policies of the adopted Local Plan are relevant:

DM14 – General Development Criteria
DM16 – Alterations and Extensions

- 3.02 The Council's adopted Supplementary Planning Guidance, "Designing an Extension – A Guide for Householders" is pertinent here.

4.0 LOCAL REPRESENTATIONS

- 4.01 Eight representations have been received from four separate addresses, all raising objection, summarised as follows:
- The purpose of the Article 4 direction is to prevent this development and the application should therefore be refused;
 - The screening will give rise to overshadowing;
 - The screening is of insufficient height and will not prevent overlooking of the gardens to either side;
 - The use of the flat roof as a balcony will give rise to noise and disturbance that will harm the amenity of the neighbours;
 - This would amount to a roof terrace rather than a balcony;
 - What if the applicant raises the floor level? This would negate the purpose of the screening;
 - The applicant is taller than the screening proposed and it will therefore be ineffective;
 - The occupier of one of the dwellings to the rear in Southsea Avenue, objects on the basis that the balcony would overlook their daughter's bedroom and result in harmful loss of privacy to them;

5.0 CONSULTATIONS

- 5.01 Minster on Sea Parish Council support the application, commenting as follows:

Minster-on-Sea Parish Council's support is subject to the whole screen being totally opaque and permanent with no gaps to completely obviate the possibility of any overlooking. The Site Plan Section - proposed screening -rear east side first floor suggests otherwise.

6.0 BACKGROUND PAPERS AND PLANS

- 6.01 Application papers, plans and correspondence for application SW/05/1166 and 17/505078/FULL
- 6.02 Article 4 Direction affecting this site.

7.0 APPRAISAL

- 7.01 Members should be clear that the purpose of an Article 4 Direction is not to seek, in perpetuity, to prevent the development it controls. It is to give the Council control over development which would otherwise not require the express grant of planning permission – development which would otherwise be “permitted development”. Contrary to the suggestion of the local residents, it is not therefore the case that the mere presence of the Article 4 direction here requires that planning permission should be refused. It means that the owner of the property must apply for planning permission for the development, which can then be scrutinised by the Council. The decision here must be based on the merits of the development proposed.
- 7.02 The change from windows to doors on the rear elevation is, in itself, unobjectionable. The key issues here are the impact of the development proposed on residential and visual amenity.

Impact on Visual Amenity

- 7.03 The proposed screens would appear somewhat obtrusive from the dwellings either side. The application property sits higher than both dwellings, but particularly more so than no.70 Scarborough Drive to the west. In addition, the rear extension lies closer to this boundary than to that of no.86 to the east.
- 7.04 However – the screens themselves would not be significantly higher than the top of the pitched roof – approximately 0.7 metres in height. I do not consider this to be significant, and whilst I am mindful that this would have some impact on the visual amenities of the neighbours, I do not consider that it would be so severe as to warrant refusal of planning permission. As Members will note, the proposed development lies entirely to the rear of the dwelling, and there would not be a pronounced impact on the character and appearance of the streetscene.
- 7.05 I conclude that the impact of the proposals on visual amenity is acceptable.

Impact on Residential Amenity

- 7.06 I do not consider, given the limited height of the panels above the existing roof, or their location to the north of what is a substantial dwelling, that they would give rise to overshadowing or loss of light.

- 7.07 With regards overlooking, the properties to the rear in Southsea Avenue, lie in excess of 40 metres from the closest part of the proposed balcony area. As such, I do not consider that they would be significantly overlooked.
- 7.08 With regards the comments of the Parish Council, the screening is not shown extending the full length of the roof, as the rearmost part of it is pitched and therefore unusable as a balcony.
- 7.09 The use of the flat roof as a balcony, with the screening proposed, would give views into the rear areas of the neighbours gardens. However – These areas of the gardens are already overlooked by the dwelling at the application site, together with other neighbouring dwellings. As such, there would be no significant increase in overlooking in this regard.
- 7.10 I note the comments of residents in respect of the height of the screening and the height of the applicant. However – the total height of screening proposed is the height of a standard garden fence. It is designed to eliminate casual overlooking and the perception of overlooking.
- 7.11 The issue here is whether the screening should be of such a height that it removes the potential for deliberate and intrusive overlooking. The planning system does not generally take into account matters such as this, and cannot be used in this regard as a means of anticipating the actions of the applicant, particularly where there is no evidence to demonstrate that the applicant wishes to deliberately overlook his neighbours. If a neighbour is determined to overlook the properties next to them, there is little the planning system can do to prevent it, and even if the screening were to be increased in height to 2.5 metres, this would not prevent such an event occurring. In any case, a similar level of overlooking can be achieved simply by looking over one's garden fence. As such, whilst I understand the views of the objectors in this regard, I do not consider it necessary for the screens to be increased in height, nor do I consider this to amount to a reason for refusing planning permission. In my view, the screening proposed is adequate to prevent harmful overlooking into the private gardens of the dwellings either side – nos.70 and 86 Scarborough Drive.
- 7.12 I note the comments made regarding potential noise and disturbance from the use of the balcony. However – such a use is unlikely to give rise to noise levels in excess of what one might expect from a dwelling, and in any case, the screening proposed would provide an amount of acoustic mitigation. A similar level of noise could be generated from the normal use of the garden at the property.
- 7.13 Given the above, I conclude that the use of the balcony with the screening proposed would not give rise to significant harm to residential amenity.

Conditions

- 7.14 I have given consideration to the comments of the Parish Council and the local residents, particularly with regards the extent of the screening and the possibility of alterations to the finished floor level of the flat roof area. In my view, it is necessary to impose conditions to:
- Require the screening to run the entire length of the flat roof area on both sides
 - Prevent any change to the finished floor level of the flat roof;
 - Prevent any further alterations to the pitched roof that might increase the useable area of balcony, which would then not be adequately screened.

- Require the screening to be erected, in full, prior to the first use of the balcony; and
- Require the screening to be retained in perpetuity.

8.0 CONCLUSION

8.01 I have given careful consideration to the potential impact of this proposal on residential and visual amenity, and to the comments and objections of local residents. However – I conclude that the scheme would not, if controlled by the proposed conditions below, give rise to such harm that planning permission should be refused. I therefore recommend approval.

9.0 RECOMMENDATION – GRANT Subject to the following conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) The screening shall be obscure glazed to not less than the equivalent of Pilkington Glass Privacy Level 3 and shall remain as such in perpetuity.

Reason: In the interests of residential amenity.

- 3) The flat roof area shall not be used as a balcony or sitting out area until the approved screening has been erected in full, running the entire length of the flat roof on both its east and west edges and being a height of 1.8 metres above the level of the flat roof. The screening shall be retained in perpetuity.

Reason: In the interests of residential amenity.

- 4) No alterations to the level or height of the flat roof shall take place, and upon completion no further development of the roof of the rear extension, whether permitted by Classes B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or not, shall take place.

Reason: In the interests of residential amenity.

The Council's approach to this application:

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

