



Appeal Decision

Site visit made on 25 January 2011

by **D R Nicholson RIBA IHBC**

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

Decision date: 8 February 2011

Appeal Ref: **APP/R3325/D/10/2140428**

Isle Abbotts Chapel, Chapel Rd., Isle Abbotts, Taunton TA3 6RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jake Motley against the decision of South Somerset District Council.
 - The application Ref. 10/01450/S73, dated 11 May 2010, was refused by notice dated 14 November 2010.
 - The application sought planning permission to vary Condition 07 of decision 08/01703/FUL, for alterations and conversion of building to form a residential dwelling with associated parking (revised application)(GR 334944/120687) without complying with a condition attached to planning permission Ref. 08/01703/FUL, dated 30 May 2008.
 - The condition in dispute is No. 07 which states that: Prior to the development hereby approved being first brought into use the (a) bathroom window and kitchen window in the south elevation and (b) the first floor bedroom window in the west elevation shall be fitted with obscure glass and shall be permanently retained and maintained in this fashion thereafter.
 - The reason given for the condition is: In the interests of residential amenity and to accord with policy ST6 of the South Somerset Local Plan adopted 2006.
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Decision

1. **I allow the appeal (in part)** and grant planning permission for alterations and conversion of building to form a residential dwelling with associated parking (revised application)(GR 334944/120687) at Isle Abbotts Chapel, Chapel Rd., Isle Abbotts, Taunton in accordance with the application Ref. 10/01450/S73, dated 11 April 2010, without compliance with condition number 07 previously imposed on planning permission Ref. 08/01703/FUL dated 30 May 2008 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new conditions:
 - 18) The obscure glass in the first floor bathroom window in the south elevation shall be permanently retained and maintained in this fashion.
 - 19) Within two months from the date of this decision, the ground floor kitchen window in the south elevation shall be fitted with obscure glass and shall be permanently retained and maintained in this fashion thereafter.

Main issue

2. From the representations submitted, and my site inspection, I find that the main issue in this appeal is the effect of the proposals on the living conditions of neighbouring residents with regard to overlooking and loss of privacy.

Reasons

3. Isle Abbots Chapel comprises the former nave and an addition to the west end. This extension stands close to The Old Manse and has windows in the south and west elevations. To the south these face the front garden of The Old Manse; to the west they face a short back yard beyond which is the neighbours' vegetable patch. Notwithstanding condition No.7, on the day of my visit only the first floor bathroom window had obscure glass. Current Policy ST6 of the adopted South Somerset Local Plan is relevant and only permits proposals which would not unacceptably harm the residential amenity of occupiers of adjacent properties by disturbing, interfering with or overlooking.
4. The west facing ground floor window looks out on a boundary fence and is not at issue. The south facing kitchen window is very close to the boundary and looks out onto a willow hurdle. However, looking above this fence it is possible to see the neighbours' bedroom window which, albeit it at an oblique angle, has a relatively low sill. Moreover, the fence is within the appeal site and could be removed. While I acknowledge that the likelihood of deliberate overlooking may not be great, the perception of reduced privacy from such a short distance away could be substantial. Although obscure glass would slightly reduce light levels there are other windows in the kitchen in any event. For all these reasons, and to comply with Policy ST6, I find that the requirement for obscure glass in the south facing kitchen window should be retained.
5. The first floor bedroom window enjoys a long view into the distance as well as overlooking the vegetable patch. While I acknowledge that this is not ideal, it is not unusual for gardens to be overlooked where houses are close together. In this case the window does not overlook any neighbouring windows and any loss of privacy would only be to one part of the neighbouring garden separated by the back yard. In my assessment, the limited reduction in privacy does not justify preventing the outlook from the bedroom window, or conflict with Policy ST6, and so this requirement in the disputed condition should be lifted. The bathroom window has obscure glass and it is not in dispute that this should be retained for privacy between the bathroom and the neighbours' bedroom.
6. For the reasons given above, and having regard to all other matters raised including the fact that the neighbours were required to fit obscure glass to one of their windows and that the position of the bedroom window may have moved, I conclude the appeal should partly succeed. I will grant a new planning permission without the disputed condition but substituting others to retain obscure glass in the bathroom and require it to be fitted to the south elevation of the kitchen within a short period of time. Relevant non-disputed conditions from the previous permission also need to be retained.

D R Nicholson

INSPECTOR