

APPLICATION NUMBER: WD/D/18/001538

APPLICATION SITE: MAROC HOUSE, 2 CORAM COURT, LYME REGIS

PROPOSAL: Erection of sun room and decking (partially retrospective).

APPLICANT: Mr and Mrs Newell

CASE OFFICER: Rob McDonald

WARD MEMBER(S): Cllr Reynolds, Cllr Turner

RECOMMENDATION SUMMARY: Approve with conditions

1 DESCRIPTION OF SITE

1.1 The application site is lies on the north side of the A3052 and is set back and above the level of the highway. The levels within the site continue to rise up towards the north, with the rear garden terracing up the rear boundary. The dwellinghouse itself is a two storey brick and clay tile detached property, with attached 1.5 storey garage that 'kinks' northwards within the plot. The NW (rear) boundary of the site is lined with mature trees.

1.2 The site is within the DDB of Lyme Regis, as well as the Dorset AONB. It is also covered by a TPO area and within land instability zone 2.

2 DESCRIPTION OF DEVELOPMENT

2.1 The application seeks partial retrospective planning permission to erect a sun room and decking in the rear garden of the property. At the time of site visits the sun room has already been erected and a large extent of the decking constructed, although this is subject to reduction following negotiated amendments.

2.2 Both elements of the proposal are sited at the top of the rear garden, on the upper terrace level and close to the rear boundary of the site. Owing to the difference in levels, some parts of the decking would be more than 30cm above natural ground level and thus constitute a 'raised platform' requiring consent.

2.3 The extent of decking proposed once these works have been completed has been reduced during the course of the application. Initially, it was proposed for the decking to span most of the width of the upper terrace area and have a depth of around 3 metres at its widest point. However, during the course of the application the extent (both width and depth) of the decking has been reduced. It now no longer extends right up to the boundary with neighbouring property 3 Coram Court and it would not wrap around the southern part of the sun room. The depth has also been

reduced to less than half and would now, as recommended, only provide an adequate provision for a walkway, rather than more expansive area for sitting or BBQs, etc. The remaining area on the upper terrace would now be paved with a mixture of slabs and stones at a lower level than the decking i.e. not constitute a 'raised platform'.

2.4 The sun room is a modest dual pitched roof timber clad structure that sits at the western end of the decking and towards the NW corner of the site. In terms of scale it is comparable with the size of a small garden shed. It appears to be somewhat bespoke in design; it does not have a rectangular floor area; it has five walls, with the east-facing elevation forming the doors for the benefit of the spectacular views over towards Golden Cap and the Jurassic Coast in this direction; there are vertical 'slot' windows on the SE and NE-facing elevations. The sun room is accessed via the decking.

3 RELEVANT PLANNING HISTORY

3.1 1/W/99/000596 - Develop land by the erection of 3No dwellings, make alterations to access and construct car parking for hotel – refused – 17 December 1999.

3.2 1/W/99/000597 - Develop land by the erection of 1No dwelling, convert hotel annex to 2No dwellings, refurbish lodge. Construct new vehicular and pedestrian access with associated parking for hotel – approved – 22 December 1999.

3.3 1/W/00/000388 - Convert former hotel to 7No flats, erect 6No houses, demolish link and annex building and replace with 3 terraced houses, demolish 2 chalets. Modify existing vehicular and pedestrian access. (AMENDED DESCRIPTION) – Refused – 25 January 2001 – allowed at appeal – 4 July 2001.

4 RELEVANT PLANNING POLICIES

4.1 Adopted West Dorset and Weymouth & Portland Local Plan

4.2 As far as this application is concerned the following policies are considered to be relevant:

- INT1 – Presumption in favour of sustainable development
- ENV1 - Landscape, Seascape and Sites of geological interest
- ENV7 - Coastal erosion and land instability
- ENV10 - The landscape and townscape setting
- ENV12 – The design and positioning of buildings
- ENV16 – Amenity

National Planning Policy Framework (NPPF) 2018

- 2 Achieving sustainable development
- 12 Achieving well-designed places
- 15 Conserving and enhancing the natural environment

4.2.1. Decision taking:

Paragraph 38: Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

5 OTHER MATERIAL PLANNING CONSIDERATIONS

5.1 Dorset Area of Outstanding Natural Beauty: A Framework for the Future AONB Management Plan 2014 – 2019

5.2 West Dorset Landscape Character Assessment (2009)

5.3 WDDC Design & Sustainable Development Planning Guidelines (2009)

6 HUMAN RIGHTS

6.1 Article 6 - Right to a fair trial.

6.2 Article 8 - Right to respect for private and family life and home.

6.3 The first protocol of Article 1 Protection of property.

6.4 This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

7 PUBLIC SECTOR EQUALITIES DUTY

7.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people;
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

7.2 Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

8 CONSULTATIONS

8.1 Lyme Regis Town Council

8.1.1 First set of comments received on 9 August 2018:

“Recommend refusal, on the grounds that the proposed development involves an entirely unacceptable degree of overlooking of a neighbouring property, with the resultant loss of residential amenity and loss of protection to private amenity space.”

8.1.2 Second set of comments received 12 September 2018:

“Members recommended that the application be refused on the grounds that the proposed development involves an entirely unacceptable degree of overlooking of a neighbouring property with the resultant loss of residential amenity and loss of protection to private amenity space. As a result, it is not in accordance with policies contained in either the adopted or draft reviewed West Dorset and Weymouth and Portland Local Plan and is at odds with an earlier appeal decision relating to the site and which removed normal permitted development rights.”

8.1.3 The Town Council were re-consulted on 5 December 2018 following amended plans. There has been no formal written response received but the meeting minutes on the TC’s website indicate the following:

“Members recommended that the town council’s previously submitted comments in respect of application WD/D/18/001538 (Maroc House, 2 Coram Court, Lyme Regis) remain unchanged in the light of the amended/additional plans...”

8.2 DCC Highway Authority

8.2.1 *No highway comment.*

8.3 DCP Environmental Health

8.3.1 *No comment.*

8.4 DCP Tree Officer

8.4.1 Verbal discussion with Tree Officer revealed no objections with regard to amended plans and root protection areas. Agreed that soft landscaping condition

would be appropriate to ensure suitable compensation for the loss of the TPO tree.

9 REPRESENTATIONS

9.1 At the time of drafting the report 11 letters of representation have been received, all of which from the same 4 third parties and some duplicate or make minor alterations to previous representations submitted. Of those submitted officers deduce that 8 object, 2 make comment and 1 is effectively a duplicate. The following material considerations concerning the proposed development have been raised:

- Overlooking neighbouring private amenity space;
- Loss of privacy into neighbouring properties
- Increased hard landscaping;
- Light spillage;
- Unsympathetic balustrading materials;
- Development within root protection area of TPOs;
- Harmful to character of surroundings and AONB landscape;
- Proposed planting may not provide adequate screening.

9.2 Cllr Turner and Cllr Reynolds have also provided representations during the course of the application, expressing concern with regards to overlooking and loss of privacy.

10 PLANNING ISSUES

10.1 The main planning issues relevant to this application are:

- Principle of the development
- Impact on the character of the area;
- Impact on neighbouring amenity;
- Highway safety and parking.

11 PLANNING ASSESSMENT

11.1 Impact on the character of the area

11.1.1 As mentioned, the development has been amended during the course of the application, and namely the extent of decking proposed has been reduced. The provision of balustrading has also been omitted consequently.

11.1.2 The visual appearance of the sun room, which is timber clad and features vertical openings is not considered unsympathetic. In terms of scale and size it would be similar to that of a typical garden shed. It is not a structure that would be especially uncommon within the curtilage of a dwellinghouse. Although sited on the upper terrace and thus most visible from the private gardens of the neighbours, it is within the corner, close to boundary fencing and in front of mature vegetation. Left untreated (which can be conditioned), the timber will weather and silver over time,

further softening its visual impact and allowing it to assimilate well into the garden setting.

11.1.3 It is appreciated that the permitted development rights to erect an outbuilding within the curtilage of the dwellinghouse were removed by the appeal decision in 2001 but these were seemingly not on grounds of visual impact. Instead, the Inspector suggests that this condition was imposed as protected trees on the site “could be vulnerable to uncontrolled minor development”.

11.1.4 Officers are aware that a TPO tree in front of the decking area on the upper terrace was removed but the applications affirm this was carried out by previous owners of the property and not by the applicants. Nevertheless, planning permissions and TPO designations run with the land and not specific persons.

11.1.5 As part of the proposal, the applications have indicated that further vegetation would be planted in front of the decking. This would not only compensate somewhat for the loss of the previous TPO tree but would also seek to enhance the soft landscaping within the rear garden, whilst providing some partial screening of the decking and sun room area. The soft landscaping and replacement tree(s) has yet to be agreed with officers and thus the latest block plan showing these details is considered to be indicative to some extent. The precise details and positioning of a replacement tree and other new planting can be agreed by condition which is considered reasonable and necessary to impose in this instance owing to the circumstances.

11.1.6 Whereas the previous extent of decking would have necessitated taller stilts to stand level above the dropping garden level, the reduced extent of decking now proposed would lie directly on top of the ground, which the agent argues would no longer make it comprise a ‘raised platform’. The visual impact of the decking, especially with the omission of the modern glass and steel balustrading, would be fairly minimal and not harmful in the context of the site. It is considered that the reduction of the decking area would also appease any concerns with regard to piling within the root protection areas of the trees. As such it is satisfied that the development would not have any significant impact on any of the protected or unprotected trees on the site and adjoining plots.

11.1.7 The development would not be visible from the street scene, nor from any public vantage points within the wider Dorset AONB landscape. As such officers are satisfied there would be no harm to the character of the area and the scenic beauty of the AONB would be conserved.

11.2 Impact on neighbouring amenity

11.2.1 Representations indicate that the upper terrace was previously laid to grass, with the exception of sporadically placed paving stones, but also featured a bench in the middle. It is claimed the bench was discreet and at a lower level on the terrace

than the proposed situation. Notwithstanding this view, a degree of overlooking and loss of privacy would have been achievable ever since the time that the garden was formally terraced. Some consideration should also be given to the fact that the upper terrace area (and indeed any other part of the rear garden) could be paved and hard landscaped without the need for planning permission and this could lead to similar or even increased degrees of overlooking and loss of privacy than the former situation on site.

11.2.2 Officers are sympathetic to the concerns of neighbours and consider that the main issue with the proposal is that the provision of a raised platform effectively formalises the upper terrace area, rendering it more likely to be used and enjoyed on a more frequent basis than previously. Consequently, the degree of overlooking and loss of privacy is likely to increase from the formalisation of this part of the garden. Whether or not the impact is deemed 'harmful' is a subjective opinion.

11.2.3 The extent of the decking, as originally proposed, was deemed by officers to emphasise this impact upon the neighbours either side (numbers 1 and 3 respectively) to an extent that would have been harmful. The neighbours at 1 Coram Court affirm that the side garden area and patio area further towards the front of their curtilage is their most-used private amenity area. This would appear to be the case upon site visits but it was also noted that the rear garden area for this property also wraps around the northern side of the house and, not dissimilarly from number 2, terraces up towards the rear boundary. There are other flat areas within the rear garden of 1 Coram Court that could be used and enjoyed and thus the side garden area and front patio is not the only intimate and private amenity area serving this neighbouring property. The distances from the decking and front of the sun room to the side garden area in question seem to be between 17 and 30 metres. The extent of the decking has been reduced, as recommended by officers. With this amendment it is now satisfied that the opportunities for overlooking from the decking area would be far less limited and undesirable. The reduced size of the decking would likely discourage the placement of garden furniture and BBQ areas, although such temporary activities and 'enjoyment' of gardens cannot be controlled by planning in any event. Officers are therefore satisfied that in light: the separation involved; the reduced extent of decking; the extent of the neighbour's garden area; the previous levels of the garden prior to the construction of the decking; and the provision of further soft landscaping, the development, once completed, would not cause any significant harm to the amenity of 1 Coram Court.

11.2.4 Officers also consider that the separation and angle of sight to the rear windows of number 2 would not result in any significant harm in terms of loss of privacy.

11.2.5 The sun room is undoubtedly the element of the development that would be used most frequently as the only sheltered space. It has been designed and orientated to optimise the views towards the Jurassic Coast cliffs and shoreline, visible above neighbouring rooftops. However, in effect, it would also face towards 3

Coram Court. The positioning of the sun room is such that it is the furthest practicable distance from both (not respectively) of the affected neighbours (1 and 3). There is nowhere else on the upper terrace where it could be positioned that would lessen the impact on one neighbour without heightening the impact on the other.

11.2.6 The neighbours at 3 Coram Court have expressed concern with regard to loss of privacy into an unobscured bathroom window and a bedroom window. The former is an unusual situation. One would expect bathroom windows to be obscure glazed, especially those that are on upper floors. It was, however, noted that blinds have been installed which would provide adequate privacy. View of the bedroom windows towards the front would be at an acute angle and would not appear to cast sight directly into all parts of the room. Ironically, these windows, which are also unobscured, overlook the rear amenity area of number 2. This reflects the fact that mutual overlooking between sites is not uncommon within Lyme Regis owing to the topography and density of dwellings. Again, blinds could be installed on these side-facing windows should privacy be an issue and the provision of further planting in front of the deck area would also provide some intervening screening. Officers accept that the impact from the sun room is less significant to neighbouring amenity and is, on balance, acceptable in this instance.

11.3 Other matters

11.3.1 Incidental concern has been raised about light pollution from some external lighting within the garden. From what officers observed on site these are small, low level and downward facing spotlights that are not considered to amount to 'development', are considered de minimis and are very unlikely to cause any statutory nuisance with regard to light pollution. There is no control over the installation of such lights within the planning regime.

12. CONCLUSION/SUMMARY

12.1 The proposed development is acceptable and therefore recommended for approval, subject to conditions.

13 RECOMMENDATION

13.1 Approval subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the approved plans:

Location Plan - Drawing Number 01C received 4 December 2018

Block Plan – Drawing Number 02C received 4 December 2018

Proposed Elevations and Sections – Drawing Number 03C received 4 December 2018

Reason: For the avoidance of doubt and to clarify the permission.

2. A soft landscaping scheme shall be submitted to the Local Planning Authority in writing within one calendar month from the date of this permission. The scheme shall include precise details (including positions and/or density, species and planting size) of all tree and shrub planting. Following approval in writing, the scheme shall be implemented during the next planting season (November – March inclusive), immediately following approval of the details. Any trees and shrubs that die, become seriously diseased or are damaged within a period of not less than 5 years from the date of this permission shall be replaced with appropriate species to the written agreement of the Local Planning Authority.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape and in the interests of neighbouring amenity.