

Appeal Decision

Site visit made on 13 September 2016

by Anthony Lyman BSC (Hons) DipTP MRTPI

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

Decision date: 22 September 2016

Appeal Ref: APP/N4720/D/16/3156673
23 Portage Avenue, Halton, Leeds, LS15 0DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Craig Spence against the decision of Leeds City Council.
 - The application Ref 16/02120/FU, dated 24 March 2016, was refused by notice dated 31 May 2016.
 - The development proposed is a gable end child's bedroom window to remain with clear glass and fire escape (restrictor fitted).
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Procedural Matter

1. The description of the development given above is that used by the appellant on the appeal form. It is a more concise description than that used on the application form.
2. The development has been completed and I was able to see the view from the window, the subject of this appeal, on my site visit.

Decision

3. The appeal is dismissed.

Main Issue

4. The main issue is the effect of the window on the living conditions of neighbours with regard to potential overlooking.

Reasons

5. The appeal property is a semi-detached bungalow that has been altered under permitted development to provide accommodation on the first floor in the roof space. The hipped roof has been extended to an end gable, a wide dormer has been constructed across the rear of the property and three velux type roof lights installed in the front roof pitch. The roof conversion provides an en-suite bedroom to the rear and a smaller bedroom to the front, said to be for the appellant's young daughter. In the end wall of the gable a window has been installed which, according to the appellant, serves as a fire escape from the bedroom.
 6. This side opening end window is clear glazed and is fitted with a restrictor to prevent it opening fully except in an emergency. The Council state that this
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window would only benefit from permitted development if it was non-opening and fitted with obscure glazing.

7. The properties in this road are on a small crescent with each pair of semi-detached dwellings angled in relation to the adjacent pair. Consequently the first floor side window, the subject of this appeal, looks towards the rear garden of the adjacent property at No. 25. The window is small and the outlook from it largely encompasses the roof of the neighbour's garage and an adjoining structure, although parts of the rear garden are also visible. The neighbour has objected to the window on the grounds of loss of privacy in the rear garden and in rooms within their dwelling.
8. From my own observations from the window, the extent of overlooking of the neighbour's habitable room is very limited due to the orientation of the properties and would not warrant dismissal of the appeal on this ground alone. There is, however, a loss of privacy in parts of the rear garden which would be exacerbated if some of the intervening ground structures I saw on my visit to No. 25 were ever removed by the neighbour. With the opening restrictor in use on the side hinged window, the outlook through the narrow open section is limited mainly to the appellant's own property. There is minimal overlooking of the neighbour's rear garden through the narrow opening, notwithstanding the harm arising from the clear glazing.
9. The appellant argues that the bedroom served by the window is '*already extremely compromised with regards to floor space layout*' and that the window only serves a child's bedroom that would be further compromised if the window was obscure glazed. However, it may not always be a child's bedroom, and the room is already well illuminated by the roof lights in the relatively low roof pitch from which I was able to see the views towards the city. The appellant also argues that the window complies with building regulations as a fire escape, although there is no evidence before me that the window has to remain clear glazed.
10. I conclude that overlooking of parts of the neighbour's rear garden, resulting in a loss of privacy and harm to the living conditions of the neighbours does arise from the clear glazing of the window, but not from the narrow opening section with the restrictor in use. The development is contrary to Policy HDG2 of the Council's Supplementary Planning Document – *Householder Design Guide* that seeks to protect the amenity of neighbours, and saved Policy GP5 of the Leeds Unitary Development Plan (Review 2006) which, amongst other things, requires proposals to avoid loss of amenity.

Conclusion

11. For the reasons given, the appeal is dismissed.

Anthony Lyman

INSPECTOR