
Appeal Decision

Site visit made on 20 September 2016

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 11 October 2016

Appeal Ref: APP/R0660/W/16/3154142

26 Cocksheadhey Road, Bollington SK10 5QZ

- 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 Mr Glynne Rogers against the decision of Cheshire East Council.
 - The application Ref 16/1878M, dated 17 April 2016, was approved on 13 June 2016 and planning permission was granted subject to conditions.
 - The development permitted is the vertical extension of existing bungalow by 1500mm to provide extra bedroom accommodation.
 - The condition in dispute is No 4 which states that: The proposed first floor bedroom windows within the side elevation of the approved extension shall be permanently glazed in obscure glass and shall not be changed unless otherwise approved by the local planning authority.
 - The reason given for the condition is: To protect the residential amenities of the occupants of the adjoining property and to comply with Policy DC3 of the Macclesfield Borough Local Plan 2004.
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Decision

1. The appeal is allowed and planning permission Ref 16/1878M for the vertical extension of existing bungalow by 1500mm to provide extra bedroom accommodation at 26 Cocksheadhey Road, Bollington SK10 5QZ granted on 13 June 2016 by Cheshire East Council is varied by deleting condition No. 4.

Background and Main Issue

2. Planning permission for a vertical extension of the existing bungalow at 26 Cocksheadhey Road to create an additional bedroom was granted subject to a condition that required the windows on the side elevation to be fitted with obscure glass. The dispute between the parties relates to this requirement.
3. The main issue is whether the disputed condition is necessary and reasonable, having regard to the living conditions of the occupiers of the neighbouring dwelling Woodlands, in particular with regard to privacy.

Reasons

4. The appeal property is set in an elevated position with the neighbouring property Woodlands set at a lower level. As a result of the curve of the road, and its siting back from the highway, it lies further forward of its neighbour.
 5. The side elevation of Woodlands facing the appeal property has no window openings. There would therefore be no loss of privacy to habitable rooms
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- within the neighbouring property. As a result of the siting of the two dwellings there would also be no overlooking to the rear amenity space of Woodlands.
6. With regard to the front garden area of the neighbouring property I accept that the proposed bedroom windows would overlook this area. However having regard to the position of the windows on the roof slope, the distance to the side boundary, the angle of views and level differences with the neighbouring front garden falling away as the level of the road drops, I consider that the views that would be achieved would be limited. I am also mindful that front garden areas generally have a much lower level of privacy than rear garden areas. I therefore consider that the lack of obscure glazing in the proposed side windows would not materially harm the privacy of the occupants of the neighbouring property.
 7. The appellant has brought my attention to the overlooking of the rear garden of the appeal property from non-obscure glazed windows in similar roof extensions at No. 28 Cocksheadhey Road and No. 1 Berristall Rise. I observed these on my site visit. The Council did not require obscure glazing in these developments. Whilst I have had regard to these examples, the position and relationship of these developments is not the same as in the case before me. I have therefore considered the appeal proposal on its individual merits.
 8. I have also noted that in imposing Condition 4, the Council did not consider it necessary to restrict the opening of the obscure glazed windows to prevent overlooking when windows would be open.
 9. In conclusion, in light of the above factors, I consider that the obscure glazing condition is not necessary in the interests of safeguarding the living conditions of the neighbouring property. The development without the condition would comply with Policy DC3 of the Macclesfield Local Plan which aims to protect the amenities of adjoining dwellings.
 10. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

Helen Hockenhull

INSPECTOR