

Appeal Decision

Site visit made on 14 November 2016

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 23 November 2016

Appeal Ref: APP/N4720/W/16/3156922

Flat 6, Wigton Court, Wigton Lane, Alwoodley, Leeds LS17 8SB

- 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 Philip Winburn against the decision of Leeds City Council.
 - The application Ref 16/03198/FU, dated 19 May 2016, was approved on 29 July 2016 and planning permission was granted subject to conditions.
 - The development permitted is a first floor rear extension.
 - The condition in dispute is No 3 which states that: "Notwithstanding the approved plans the glazing to the West elevation facing No. 129 of the proposed wintergarden shall be glazed with obscure glass to at least level 3 obscurity and thereafter retained as such."
 - The reason given for the condition is: "In the interests of residential amenity and in accordance with adopted Leeds UDP (2006) policy GP5 and the National Planning Policy Framework."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is whether the condition is necessary and reasonable in the interest of protecting the living conditions of the occupiers of No 129 Wigton Lane with regard to privacy.

Reasons

3. The appeal property currently has a balcony on the rear elevation of the building that is at first floor level. I understand this was created as part of the recent refurbishment of the apartment block. The Council have indicated that a requirement of this permission was that the balcony should have a 0.6m high wall with a further 0.6m high screen along the side elevation closest to No 129.
 4. The wintergarden would be located on the current balcony area, and would be approximately 3.8m from the boundary with the rear garden of No 129. In order to maintain satisfactory levels of privacy the *Householder Design Guide Supplementary Planning Document (adopted April 2012)* (HDG) normally requires a minimum distance of 10.5m between ground floor windows in living rooms to the boundary. This is significantly greater than the distance maintained here. In addition the HDG indicates that upper floor side windows which overlook neighbouring properties will only be permitted if obscure glazed or if they serve non-habitable areas such as landings.
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5. Currently, I observed that apart from when standing immediately adjacent to western wall of the balcony, views into the rear garden of the adjacent garden were not possible from the balcony. Similarly, although the kitchen / living room area of the apartment has two windows on the side elevation facing No 129, unless standing directly in front of these windows, views of this adjacent house, or its garden, were very limited. As such, despite the elevated position and proximity to the boundary of these windows and the balcony, the rear elevation and garden of No 129, still had a good level of privacy.
6. However, the fully glazed nature of the side elevation of the wintergarden would enable extensive views of the garden to be had whenever the room was being used. This would be significantly different from the current situation, and without the obscure glazing of this elevation, would lead to an unacceptable loss of privacy to the rear garden.
7. Furthermore, the change from a balcony which can only be used for limited periods of time, to an enclosed room which can be used year round, would significantly increase the usage of this space, and thus the amount of time the garden is overlooked. Whilst in suburban locations views are often possible from first floor windows into adjacent rear gardens, first floor windows generally serve bedrooms, whereas this would be a living room which would have the potential to be used much more, particularly during the day, than a bedroom.
8. I appreciate the appellant's desire to be able to enjoy long range views that result from the elevated position. I also accept that No 129 has an extensive rear garden, and that privacy to the garden may be less important than for the house itself. Nevertheless, without the obscure glazing, short range views of the garden would be possible which would increase overlooking and the perception of being overlooked. Moreover, I noted that even with this elevation having obscure glazing, long range views would still be able to be enjoyed from the room.
9. Consequently, without the obscure glazing of the western elevation of the proposal, I consider that it would adversely affect the privacy of the occupiers of No 129. Therefore, I conclude that the condition is both reasonable and necessary in order to protect the living conditions of the occupiers of this property, and to ensure that the proposal complies with Policy GP5 of the *Leeds Unitary Development Plan (Review 2006) (adopted July 2006)* which seeks to ensure that developments resolve detailed design considerations.
10. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR