The Planning Inspectorate

Appeal Decision

Site visit made on 15 May 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 18 May 2017

Appeal Ref: APP/W3710/W/16/3163754
86 Golf Drive, Nuneaton, Warwickshire CV11 6ND.

- 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 Mrs Janet Smith against the decision of Nuneaton & Bedworth Borough Council.
- The application Ref 034325, dated 22 July 2016, was approved on 26 September 2016 and planning permission was granted subject to one condition.
- The development permitted is retention of flat roof dormer (including first floor side windows).
- The condition in dispute is No 1 which states that: "*Within two months of this approval (by the 26th November 2016) the first floor windows in the side elevation facing 84 Golf Drive serving the landing and the bedroom closest to the front of the house will be fitted with obscure glazing with an obscurity level of 4 (or similar obscure film) and this will be subsequently maintained in perpetuity, the windows to the landing and this bedroom shall not be opened at any time unless otherwise agreed in writing by the Council*".
- The reason given for the condition is: "*To protect the residential amenity of surrounding properties future occupiers*".

Decision

1. The appeal is allowed and the planning permission Ref 034325 granted for the retention of flat roof dormer (including first floor side windows) at 86 Golf Drive, Nuneaton, Warwickshire CV11 6ND granted on 26 September 2016 by Nuneaton & Bedworth Borough Council, is varied by deleting condition 1.

Main Issues

2. The main issue is whether the condition is reasonable and necessary to protect the living conditions of occupiers at 84 Golf Drive, with particular reference to privacy.

Reasons

3. The appeal property is a modestly proportioned dormer bungalow located on the northern side of Golf Drive. It sits within a long line of similar properties which are positioned broadside to one another. As I saw when I visited the area, dormer windows have been added to several properties.

4. Policy ENV14 of the "*Nuneaton & Bedworth Local Plan 2006*" (the LP) states that the design of new development should comply with the relevant supplementary planning documents. In this case, the relevant document is the "*Residential Design Guide 2004*" (the RDG) Section 9 of which provides advice in relation to privacy. It goes on to say that front, rear and side facing

windows to habitable rooms will be protected from significant overlooking. Habitable rooms are rooms where occupants spend significant amounts of time, such as the lounge, kitchen, study, dining room and bedroom.

5. It is the effect of the bedroom window (closest to the road) and the landing window on the ground floor dining room window to No 84 that is the issue in this case. When I conducted my site visit, I was able to enter the appeal property and look from the disputed windows. Both windows have been fitted with netted curtains such that views from No 84 into the appeal property are severely restricted.

6. In my opinion views from the front bedroom window into the dining room of No 84 are extremely limited. Given its elevated position and oblique angle, one can only see a limited section of the dining room closest to the window. The bedroom is configured such that obtaining any view towards No 84 is an onerous task and involves manoeuvring around furniture and putting one's face immediately next to the window whilst looking down and across.

7. Whilst the landing window is orientated more or less opposite, it is again elevated to such a degree that the only view one has of the dining room is of the carpet and window cill. Given the window is to a landing and not a habitable room window where one might loiter, I find it very unlikely that anyone merely walking past the window would be able to see into the dining room of No 84.

8. I acknowledge that a perception of being overlooked can in some circumstances contribute to harm to residents' living conditions. But in this case, given the oblique/elevated relationship as well as the blinds/net curtains fitted to the opposing windows, as indicated above, such a perception experienced by the occupants of No 84 would not be so serious as to warrant retention of the condition.

9. Moreover, the relationship between the windows and No 84 appears to be very similar to several other properties in the area. Consequently, it is not clear why the Council consider the relationship to be unacceptable in this particular instance.

10. In summary, for the reasons above, I conclude that a condition to provide obscure glazing to the landing and bedroom windows is not necessary or reasonable to protect the living conditions of occupiers at No 84 with particular reference to privacy. Accordingly, there would be no conflict with Policy ENV14 of the LP and I conclude that the appeal should be allowed and condition No 1 deleted.

11. I have had regard to all other matters raised, but they are not sufficient to outweigh the considerations which have led me to my conclusions.

D. M. Young

Inspector