

Appeal Decision

Site visit made on 15 March 2017

by Julie Dale Clark BA (Hons) MCD DMS MRTPI

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

Decision date: 24 May 2017

Appeal Ref: APP/N4205/D/17/3167203

4 Glendale Drive, Bolton BL3 4PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Atif Anwar against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 97507/16, dated 22 September 2016, was refused by notice dated 24 November 2016.
 - The application sought planning permission for the erection of part single storey/part two storey extension to front, side and rear without complying with a condition attached to planning permission Ref 92044/14, dated 8 July 2014.
 - The condition in dispute is No 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking, re-enacting or modifying that Order) no windows or doors shall be formed in the northern, western or southern elevations of the development hereby approved other than those shown on the approved drawings, nor shall those approved windows or doors be enlarged or altered.*
 - The reason given for the condition is: *To safeguard the outlook, privacy and living conditions of neighbouring residents.*
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Application for Costs

1. An application for costs was made by Mr Atif Anwar against Bolton Metropolitan Borough Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for the erection of part single storey/part two storey extension to front, side and rear at 4 Glendale Drive, Bolton BL3 4PD in accordance with application Ref 97507/16 made on the 22 September 2016 without compliance with condition number 4, previously imposed on planning permission Ref 92044/14 dated 8 July 2014, in so far as it relates to the approved plans, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect. And subject to the following new conditions:
 - *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other Order revoking, re-enacting or modifying that Order) no windows or doors shall*
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be formed in the northern, western or southern elevations of the development hereby approved other than those shown on the approved drawings, nor shall those approved windows or doors be enlarged or altered.

- *The development hereby permitted shall be carried out in accordance with the following approved plans, unnumbered but submitted with this appeal:-*
 - *Ground and First Floor Plans; and*
 - *Elevations*

Background

3. An extension has been built at the appeal site which includes windows to two en-suite bathrooms in the southern elevation at first floor level. The windows appear as one window as they are very close together and comprise obscurely glazed top hung openings. The adjacent property No 6 Glendale Drive has a first floor opening obscurely glazed window in the elevation facing No 4's gable.
4. The extension was not fully complete at the time of my site visit but I was able to see the window and assess its impact on the occupiers of the neighbouring property. The condition in dispute prevents any new windows other than those previously approved in the northern and southern elevations (side gables) or the western elevation (rear). The approved plan indicates no windows at first floor level in the southern elevation.

Main Issue

5. I consider that the main issue is the effect of the windows on the living conditions of the occupiers of the adjacent property, No 6 Glendale Drive.

Reasons

6. The windows subject to this appeal are to two en-suite bathrooms; they are obscurely glazed with top hung openings. They face a bathroom window in the side gable of No 6. Given the use of the rooms that the windows serve I do not consider that any harm to the living conditions of the occupiers of No 6 would occur in terms of outlook or privacy. I therefore do not consider that retaining the windows would conflict with Core Strategy Policy CG4¹ which establishes that the Council will ensure that new development is compatible with surrounding land uses and occupiers, protecting amenity, privacy, safety and security.
7. I propose to vary the condition, in so far as it relates to the approved drawings, and allow the bathroom windows to be retained. However, in the interests of the living conditions of neighbouring properties I intend to impose a condition that would restrict any further openings other than those shown on the plans submitted with this appeal.
8. In the original condition 4 the eastern (front) elevation is not referred to but in the Council's suggested condition the front elevation is included. I do not

¹ Local Development Framework Bolton's Core Strategy Development Plan Document, Adopted 2 March 2011.

consider it necessary to include the front elevation given that this elevation fronts the street and any alterations are unlikely to affect the living conditions of neighbouring properties. I therefore shall apply the varied condition only to the elevations that the original condition referred to. Condition 4 refers to the 1995 General Permitted Development Order but this has been superseded by the 2015 Order. I have therefore updated the condition accordingly.

Conclusion

9. I shall therefore allow the appeal and vary Condition No 4, in so far as it refers to the approved plans, so that the first floor bathroom windows in the southern elevation can be retained but any further new openings are restricted in order to protect the living conditions of the occupiers of neighbouring properties. For the avoidance of doubt and in the interests of proper planning I impose a condition relating to the plans hereby approved.

J D Clark

INSPECTOR