



Appeal Decision

Site visit made on 6 November 2017

by Chris Couper BA (Hons) DipTP MRTPI

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

Decision date: 7th December 2017

Appeal Ref: APP/H0520/W/17/3180050

The Retreat, Brington Road, Old Weston PE28 5LP

- 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 and Mrs Martin Churley against the decision of Huntingdonshire District Council.
 - The application Ref 17/00873/HHFUL, dated 24 April 2017, was approved on 4 July 2017 and planning permission was granted subject to conditions.
 - The development permitted is a single storey rear extension, front porch, juliet doors to first floor and an additional first floor window.
 - The condition in dispute is No. 4 which states that: *The first floor window on the west elevation serving the master bedroom hereby permitted shall be of obscured glazing and non-opening up to a height of 1700mm above internal finished floor level, and thereafter retained as such unless otherwise agreed in writing by the Local Planning Authority. The obscure glazing shall be to a minimum of Privacy Level 3 Pilkington Glass or equivalent.*
 - The reason given for the condition is: *In the interest of residential amenity of neighbours.*
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Decision

1. The appeal is allowed and the planning permission Ref 17/00873/HHFUL for a single storey rear extension, front porch, juliet doors to first floor and an additional first floor window at The Retreat, Brington Road, Old Weston PE28 5LP granted on 4 July 2017 by Huntingdonshire District Council, is varied by deleting condition Nos. 4 and 2 and substituting for them the following conditions:
 - The first floor window on the west elevation serving the master bedroom hereby permitted shall be of obscured glazing, and shall be fitted with casement stays to match those in existing windows in the property allowing a maximum opening of 90mm, and shall thereafter be retained as such. The obscure glazing shall be to a minimum of Privacy Level 3 Pilkington Glass or equivalent.
 - Other than as required by condition 4), the development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, 003, 004, 005, and 006.

Procedural Matters

2. In their Planning Appeal Support Document ('PASD') the appellants state that they have no objection to condition No. 4's requirement that the first floor master bedroom window in the west elevation be obscure glazed. They state

that their objection is to the requirement that it shall be non-opening to a height of 1700mm above the internal finished floor level. However, they continue that, in order to match existing windows in the property, casement stays will be fitted to the window allowing a maximum opening of 90mm. I have treated the appeal as a proposal to vary condition No. 4 accordingly.

3. I noted on my visit that a substantial start had been made on the development, although the window the subject of this appeal was not in place.
4. Section 8 of the PASD comments on the effect that varying condition No. 4 would have on Mr Rimmer at Benfield House. However, Mr Rimmer resides at Old School House, and Benfield House is to the east of The Retreat. As the proposed window the subject of the appeal faces west, it is clear to me that those references should be to Old School House. I have treated them as such.

Main Issue

5. The main issue is the effect that varying condition No. 4 would have on the living conditions at Old School House, with particular regard to overlooking and privacy.

Reasons

6. The nearest parts of Old School House to the proposed master bedroom window contain side-facing ground floor kitchen windows, with bedroom windows in the floor above. The proposed master bedroom window would be set well away from the boundary with that property, and separated from those openings by parts of The Retreat's rear garden and Old School House's driveway. The distance between the nearest windows in Old School House and the proposed window is calculated by the appellants at over 17.5m, and by the Council at approximately 18.4m.
7. Should the condition be varied as suggested, even with the proposed window opened to the full extent allowed by the stays there would be very little if any overlooking of the kitchen or bedroom in Old School House. That is due to the substantial distance between them, together with the stays' impact of significantly restricting the range of any outlook. Any outlook towards the kitchen would also be at least partially interrupted by The Retreat's breakfast room roof, together with a fence and trellis on the boundary.
8. In reaching my conclusion I have considered that The Retreat's master bedroom has a large rear facing window (which is proposed to be replaced with a Juliet balcony), from where the occupants have an open view looking down their own rear garden and field beyond. In my opinion, should persons in the bedroom wish to dwell to enjoy an outlook, it is far more likely that they would do so from there, rather than from the proposed side-facing window.
9. As the window the subject of the appeal would be secondary, the scheme would not conflict with the advice in the Huntingdonshire Design Guide 2017 ('HDG') that where the principal windows of an extension face the principal windows in a neighbouring property, there should be a minimum distance of 21m between the habitable rooms.
10. As the drawings are scaled, I am satisfied that I have sufficient information regarding the proposed window's location. Finally, whilst The Town and Country Planning (General Permitted Development) (England) Order 2015 sets

out permitted development rights, it does not stipulate what may, or may not, be acceptable should planning permission be required.

11. Whatever the purpose of the proposed window, I conclude that varying condition No. 4 of the planning permission in the manner suggested would not impact the living conditions at Old School House to a harmful degree. The proposal would not conflict with those policies cited in the appeal questionnaire, most particularly saved Policy H34 of the Huntingdonshire Local Plan Part One 1995 ('LPPO') which requires that extensions have regard to the amenity and privacy of adjoining properties, or with the stance of ensuring a high standard of amenity in emerging Policy LP 13 of Huntingdonshire's Local Plan to 2036: Consultation Draft 2017. It would also not conflict with the HDG. As LPPO Policy En25 and Huntingdonshire Core Strategy 2009 Policy CS1 address more general matters of design and sustainability, they are of limited relevance to this issue.
12. Having regard to the tests in the National Planning Policy Framework, that part of condition No. 4 requiring the window to be non-opening up to a height of 1700mm above the internal finished floor level is unnecessary.
13. Condition No. 2 of the planning permission requires that the development be carried out in accordance with the approved plans. Approved plan nos. 002 and 003 show the window the subject of this appeal annotated with the words '*new window obscure glazed with openable section above 1700mm*'. As I have varied condition No. 4, in the interests of clarity and consistency, I have also amended condition No. 2.
14. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR