



Appeal Decision

Site visit made on 13 August 2019

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 September 2019

Appeal Ref: APP/D1780/W/19/3228825

194 Bassett Green Road, Bassett, Southampton, Hampshire SO16 3TQ

- 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 Benjamin Hewson against the decision of Southampton City Council.
 - The application Ref 18/02188/FUL, dated 3 December 2018, was approved on 27 February 2019 and planning permission was granted subject to conditions.
 - The development permitted is 'Erection of a rear conservatory (resubmission of planning application ref: 18/01372/FUL)'.
 - The condition in dispute is No 5 which states that: The top two rows of glazing of the windows and doors within the angled side elevations of the extension hereby approved shall be installed using obscure glazing to a minimum level 3 obscurity and thereafter permanently retained in that condition.
 - The reason given for the condition is: To protect the neighbours from perceived overlooking of their rear garden areas.
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Decision

1. The appeal is allowed and the planning permission Ref 18/02188/FUL for 'Erection of a rear conservatory (resubmission of planning application ref: 18/01372/FUL)' at 194 Bassett Green Road, Bassett, Southampton, Hampshire SO16 3TQ granted on 27 February 2019 is varied by deleting condition No 5.

Background and Main Issue

2. Planning permission for the rear conservatory included a condition requiring the top two rows of glazing of the windows and doors within the angled side elevations of the extension to be obscure glazed. The Council's appeal statement indicates that it considers the condition to be necessary to prevent overlooking of neighbouring gardens. The appellant objects to the condition as he considers that the development would not result in overlooking and the obscure glazing would create safety issues and reduce enjoyment of his garden.
3. Taking this into account, the main issue is whether the condition is reasonable and necessary in the interests of the living conditions of adjoining occupiers, with particular regard to overlooking into the rear gardens of 192 and 196 Bassett Green Road.

Reasons

4. The appeal site is a mid-terrace dwelling situated between Nos 192 and 196. A relatively large garden slopes downwards from the rear of the dwelling and its raised patio. Shared boundaries with the rear gardens of Nos 192 and 196 are

delineated by relatively high fencing and various soft landscaping including hedging, shrubs and some trees.

5. I observed on my site visit that work on the rear extension had begun and that some soft landscaping, such as the Red Robin hedge, had been removed and replaced by some relatively tall hedging. The height and length of the boundary treatment present at the time of my site visit provides considerable screening and prevents significant overlooking into the gardens of Nos 192 and 196 from the site's rear garden and where the conservatory would be located.
6. The floor level of the conservatory would be slightly higher than the previous level of the patio and the conservatory would be in relatively close proximity to the shared boundaries. I recognise that some other existing soft landscaping may need to be cut back or removed to facilitate the development, or may simply not survive the construction works. However, the increase in floor level is not so significant that overlooking from the conservatory would be substantially different than from the previous patio area. The fencing of itself is also sufficient – including accounting for topography, the position of the conservatory and the angle of its chamfered corners – to avoid significant overlooking occurring from the conservatory even if there were to be less soft landscaping near to the shared boundaries. This is also a residential area with several dwellings located in relatively close proximity. As such, a degree of mutual overlooking would not be unusual.
7. Accordingly, the development without the condition would not introduce an unreasonable level of overlooking into the rear gardens of Nos 192 and 196 and consequently would not adversely affect the living conditions of the occupiers in those properties. Taking into account the advice within the National Planning Policy Framework and the Planning Practice Guidance on the use of planning conditions, the condition is therefore neither reasonable nor necessary in the interests of the living conditions of adjoining occupiers, with particular regard to overlooking into the rear gardens of Nos 192 and 196. As such, there would be compliance with Policy SDP1 of the City of Southampton Local Plan Review (2006), which amongst other aspects sets out that permission will only be granted where development does not unacceptably affect the amenity of citizens.
8. I recognise neighbours' other concerns including the process involved in the scheme obtaining planning permission from the Council. However, matters regarding that process are not determinative as to whether condition 5 is reasonable and necessary.
9. For the above reasons, I conclude that the appeal should succeed. Accordingly, I vary the planning permission by deleting the disputed condition.

Tobias Gethin

INSPECTOR