



Appeal Decision

Site visit made on 2 December 2019 by S Witherley

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Appeal Ref: APP/V0728/W/19/3237617

18 Belmangate, Guisborough, Cleveland, TS14 7AB

- 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 Anne-Marie Edwards against the decision of Redcar & Cleveland Borough Council.
- The application, Ref R/2019/0001/CA, dated 21 December 2018, was approved by notice 3 July 2019 and planning permission was granted subject to conditions.
- The development proposed is *demolition of single storey extension to the rear, to be replaced with a double storey extension, to be the same footprint as the existing with a single storey small porch. Internal alterations to the property with a new window to the side.*
- The condition in dispute is No. 4 which states:
Prior to occupation of the extension hereby approved, the proposed window in the side (north) elevation shall be obscure glazed and thereafter retained as such as all times.
The reason given for the condition is: To ensure the development would not cause any issues in terms of overlooking or loss of privacy in the interest of residential amenity in accordance with policy SD4 of the Local plan.

Decision

1. The appeal is allowed and planning permission Ref R/2019/0001/CA for the demolition of single storey extension to the rear, replace with part two storey extension, part single storey extension at 18 Belmangate, Guisborough, Cleveland, TS14 7AB, granted on 3 July 2019, by Redcar & Cleveland Borough Council, is varied, by deleting condition No 4 and substituting it with the following condition:

The proposed window in the first floor side (north) elevation shall be sliding sash with the lower half of the unit fitted with opaque glazing and thereafter retained.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The description of the development given on the application form is set out in the banner heading above. However, in the formal decision above I have used the description given in the Council's decision notice as that describes the development adequately and is more succinct than the description given on the application form.

Background and Main Issue

4. Planning permission was granted by the Council for a part single and part two storey extension at the rear of the appeal property. Attached to that permission were a number of conditions, including condition 4 which requires that the first floor window in the north facing elevation is fitted with obscured glazing. Paragraph 55 of the National Planning Policy Framework (the Framework) states that 'planning conditions should only be kept to a minimum and only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
5. The appellant contends that the restriction imposed by condition 4 is unreasonable and unnecessary and does not meet the 6 tests. Consequently, she requests that the condition is deleted and substituted with a new condition that requires only the bottom section of the window to be fitted with obscured glazing.
6. The appeal property is a listed building (LB) and also sits within the Guisborough Conservation Area (CA). Within its appeal statement, the Council confirmed that both planning permission and listed building consent have been granted for the proposed extension. In that respect, the Council is satisfied that the impact of the scheme is satisfactory in terms of its effect on the listed building and that the character or appearance of the CA would be preserved or enhanced. I have had special regard to the statutory duty to pay special attention to the desirability of preserving the building or its setting as well as the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this respect, having regard to the nature of the development and its relationship with its surroundings, as well as its siting and location within the site, I am satisfied that those interests would be preserved. On the evidence presented, I see no reason to take a different position to the Council in those respects. The question of whether the window should be obscured or otherwise does not have any implications for the designated heritage assets.
7. The main issue is whether varying the disputed condition is reasonable and necessary to protect the living conditions of future occupiers of the development and existing and future occupiers of the neighbouring property, located to the north of the appeal site, with particular regard to overlooking and privacy.

Reasons for the Recommendation

8. The appeal property is a two storey mid-terraced dwelling with an existing single storey rear addition. The proposal seeks to replace the existing single storey rear addition and replace it with a part single and part two storey extension. Within the first floor of the north side facing elevation it is proposed to install a sliding sash window which would service a bedroom. This window would overlook the rear of the adjacent public house which contains accessible outdoor space at ground floor level and living accommodation at first floor level.
9. The Council have noted that the overall development would accord with the relevant planning policies contained within the Redcar & Cleveland Local Plan (2018) (LP) and the guidance contained in the Redcar & Cleveland Local Development Framework *Residential Extension and Alterations SPD* (2013) (SPD) for residential development subject to conditions. The condition subject to this appeal was attached to address the Council's concern regarding a loss of privacy from the proposed window and to accord with the requirements of Policy SD 4 of the LP.

10. The proposed window has the potential to increase the degree of overlooking experienced between the site and the neighbouring property, therefore, it is considered necessary and reasonable to attach a condition which seeks to safeguard occupiers of both the appeal property and those occupying the neighbouring property from overlooking and loss of privacy.
11. Having regard to the location of the proposed window, the separation distance from the corresponding neighbouring windows, alongside the angle at which patrons and occupiers would need to be positioned in order to view inside and from the proposed first-floor bedroom, the proposal to obscure the bottom half of the window would provide adequate levels of privacy and would prevent any unnecessary overlooking. I am satisfied that the proposed condition would provide a reasonable balance between maintaining some outlook from within the proposed bedroom – through the upper section – whilst avoiding undue levels of overlooking or loss of privacy.
13. Taking account of the Framework and the advice set out in the Government's Planning Practice Guidance relating to the appropriate use of planning conditions and having regard to the above, I conclude that the disputed condition is not reasonable or necessary to protect the living conditions of future occupiers of the development and the existing and future occupiers of the neighbouring property, with particular regard to overlooking and loss of privacy. Subject to the substitution of the disputed condition, with a condition to ensure that the bottom half of the window is fitted with obscured glazing the development would not conflict with Policy SD 4 of the LP, which is considered consistent with the Framework in so far as it seeks a good standard of amenity for all existing and future residents of land and buildings.

Other matters

14. Representations were received from the occupier of the neighbouring property who raised a number of concerns including the overall scale of the development, materials and impact on heritage asset and the CA. These matters have been addressed by the Council and there is no reason to consider a different view. The issue raised regarding living conditions has been considered above.

Conclusion

15. For the reasons given above, I conclude that the appeal should succeed and that the planning permission should be varied by deleting condition 4 and substituting a new condition No 4 as set out in the formal decision.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

16. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree and conclude that the appeal should succeed as set out above.

Chris Preston

INSPECTOR