



Appeal Decision

Site visit made on 18 February 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 12 March 2020

Appeal Ref: APP/M1710/D/19/3241876

Alva, Crossways Road, Grayshott, Hindhead, Hampshire GU26 6HE

- 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 conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Edward Morgan against the decision of East Hampshire District Council.
 - The application Ref 26357/009, dated 2 May 2019, was refused by notice dated 4 October 2019.
 - The application sought planning permission for two storey rear extension (as amended by plans received 17/07/2017) without complying with a condition attached to planning permission Ref 26357/007, dated 20 July 2017.
 - The condition in dispute is No 3 which states that: *"Notwithstanding any indication shown on the approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) prior to the first occupation of the development hereby approved the first floor window in the east elevation of the extension hereby permitted shall be glazed with obscure glass. It shall be retained at all times and shall not at any time be replaced by clear glazing"*.
 - The reason given for the condition is: *"To protect the privacy of the occupants of the adjoining residential property"*.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant's application for removal or variation of a condition following grant of planning permission refers to the approved development as *'The first floor window in the east elevation of the extension hereby permitted shall be glazed with obscure glass'*. It also refers to the approved planning application number and date of decision. It is evident from reading the Council's officer report that the description of the approved development is *'two storey rear extension (as amended by plans received 17/07/2017)'*. Therefore, in the above heading, I have used this description of the approved development.

Background and Main Issue

3. In approving the planning application, the Council imposed a condition (No 3) which required that prior to first occupation of the development the first floor window in the east elevation of the extension be glazed with obscure glass. The reason for the condition was to protect the privacy of the occupants of the adjoining residential property.

4. On my site visit, I saw that the aforementioned window, permitted by planning permission Ref 26357/007, had clear glass. The proposal seeks to remove condition No 3, thereby not requiring the first floor window in the east elevation of the extension to be glazed with obscure glass.
5. The main issue is therefore whether the condition is reasonable and necessary in the interests of the living conditions of the occupiers of the neighbouring property 'Homeleigh', with particular reference to privacy.

Reasons

6. Alva is a two-storey detached dwelling positioned on the north side of Crossways Road. The property is set back from the road by about 12 metres and 'The Grayshott 17 Right of Way' runs parallel to the eastern boundary of the appeal site.
7. Homeleigh is a two-storey detached dwelling positioned east of the appeal site and the 'The Grayshott 17 Right of Way' runs parallel to its western boundary. Unlike other properties along this section of Crossways Road, Homeleigh is set much further back from the road with its rear elevation facing towards Crossways Road. Consequently, as a result of the layout of development the rear garden of Homeleigh runs parallel to and opposite the east elevation of Alva. Although the two properties are separated by 'The Grayshott 17 Right of Way', at its closest, the distance between the first floor window in the east elevation of Alva and the western boundary of the rear garden of Homeleigh is approximately 5 metres.
8. The Council's 'Residential Extensions & Householder Development Supplementary Planning Document 2018' (SPD) states that, in regard to residential extensions, windows to habitable rooms should not allow unrestricted views into neighbouring windows or private amenity areas.
9. I saw on my site visit that the first floor window at the appeal property serves a bedroom. Notwithstanding that the appellant says that it is a 'spare' bedroom that might be occupied up to 10 nights a year, it is nonetheless a habitable room. Furthermore, the rear garden of Homeleigh, as a result of tall boundary fencing around its perimeter, is a private amenity space.
10. Although there is tall fencing along the boundary, the first floor window, as a result of the glazing to it being clear and its position within the east elevation of the appeal property being roughly central to the neighbouring rear garden, provides comparatively overt and invasive views of the private amenity space of Homeleigh over a relatively short distance. Although there is a reasonable amount of vegetation, including two tall trees along the boundary of the rear garden of Homeleigh, the presence of the vegetation and trees could not be relied upon to provide a permanent screen. In any event, the views into the rear garden are relatively extensive and mostly uninterrupted by the vegetation and trees.
11. The appellant points out that only oblique views of the windows in the rear elevation of Homeleigh are possible. This is a matter not disputed by the Council. Having considered the proposal and visited the site I concur with the appellant that the view from the window at the appeal property, taking into account the distance involved and its position relative to the windows in the rear elevation of Homeleigh, even with clear glazing, does not result in

substantial harmful overlooking into the windows in the rear elevation of Homeleigh.

12. However, for the reasons outlined above, the window without the benefit of obscure glazing allows unrestricted views into the outside private amenity space of Homeleigh, resulting in an unacceptable loss of privacy for the occupiers. Therefore, the window without the benefit of obscure glazing fails to accord with Policies CP27 and CP29 of the East Hampshire District Local Plan: Joint Core Strategy 2014, the SPD, and paragraph 127(f) of the National Planning Policy Framework (the Framework) which, amongst other things, seek to ensure development avoids the unacceptable effect on the living conditions of the occupiers of neighbouring properties through loss of privacy. Condition No 3 is therefore reasonable and necessary. Moreover, it passes the tests in regard to the correct use of conditions as set out in paragraph 55 of the Framework.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR