



Appeal Decision

Site visit made on 4 August 2020 by Hannah Ellison BSc (Hons) MSc MRTPI

Decision by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/R0660/W/20/3252765

26 Cocksheadhey Road, Bollington SK10 5QZ

- 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 Glynne Rogers against the decision of Cheshire East Council.
 - The application Ref 20/1015M, dated 5 March 2020, was approved on 30 April 2020 and planning permission was granted subject to conditions.
 - The development permitted is a rear two storey extension.
 - The condition in dispute is No 4 which states that:
The proposed new first-floor window on the southern side elevation, as shown on Drawing no. 00-03 (received 05/03/20), serving bedroom 3 - shall be glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration. The windows shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The first floor windows referred to in this condition shall remain at the same level of obscurity (Note the application of translucent film to clear glazed windows does not satisfy the requirements of this condition).
 - The reason given for the condition is:
To protect the residential amenities of the occupants of adjoining property.
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Decision

1. The appeal is allowed and the planning permission Ref 20/1015M for a rear two storey extension at 26 Cocksheadhey Road, Bollington SK10 5QZ, granted on 30 April 2020 by Cheshire East Council, is varied by deleting condition No 4.

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.

Procedural Matter

3. A previous appeal against a condition attached to an earlier upward extension of the appeal property which required the first-floor windows to be obscurely glazed was allowed¹. However, I have determined this appeal based on the circumstances of the site and the details of the disputed condition before me.

¹ Appeal Ref: APP/R0660/W/16/3154142

Background and Main Issue

4. Planning permission was granted in April 2020 for a two-storey extension to the rear of No 26 Cocksheadhey Road, subject to a number of conditions. Condition No 4, which now forms the subject of this appeal, specifies that the first floor window on the southern elevation of the extension shall be fitted with obscure glass and shall be non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room. This appeal seeks to remove this condition as the appellant wishes the window to be fitted with clear glass.
5. The main issue is therefore whether the condition is reasonable and necessary having regard to the living conditions of the occupiers of the neighbouring property known as 'Woodsland', with particular regard to overlooking and privacy.

Reasons

6. The appeal property is a detached dwelling that is set forward of and elevated above its neighbour, Woodsland, which is located immediately to the south. There are two existing clear glazed first floor windows on the south elevation of the appeal dwelling. The approved extension would be positioned to the rear of the dwelling and close to the shared side boundary with Woodsland. It would introduce an additional first floor window to this elevation, which would serve a bedroom.
7. Whilst the appeal dwelling is positioned higher than Woodsland, due to the siting of the dwellings, the outlook from the proposed window would be predominantly of the side gable of Woodsland and of the wider landscape beyond. There is extensive mature boundary treatment along the adjacent stretch of the shared boundary between the properties, thus significantly preventing the opportunity for side views to the west towards the rear garden of Woodsland.
8. Additionally, the set back position of the window in the site would restrict the ability to overlook the front garden of Woodsland. Any limited overlooking from the proposed window to the front garden which could be achieved from oblique views would be negligible above the current relationship from the existing first floor side windows and would not lead to a material loss of privacy for the occupiers of Woodsland..
9. Condition 4 also requires the window to be non-opening. However, for the reasons noted above, even if the occupants of the appeal dwelling could open the window, this would not substantially increase the potential to overlook the front or rear garden of Woodsland.
10. Consequently, the lack of obscure glazing and ability to open the window would not cause material harm to the living conditions of the occupiers of Woodsland due to overlooking and loss of privacy. As such, the development as proposed to be constructed without compliance with the condition would adhere with Policy DC3 of the Macclesfield Borough Local Plan (January 2004) which seeks to ensure developments do not significantly injure the amenities of adjoining or nearby residential property due to loss of privacy.

11. Thus, condition No 4 is not considered reasonable or necessary and does not therefore meet the tests set out in paragraph 55 of the National Planning Policy Framework. As such, it should be deleted in its entirety.

Conclusion and Recommendation

12. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

Hannah Ellison

Appeal Planning Officer

Inspector's Decision

13. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Sarah Housden

INSPECTOR