



Appeal Decision

Site visit made on 17 August 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2020

Appeal Ref: APP/K0235/W/20/3251683

Ailsa Villa, 49 Odell Road, Sharnbrook MK44 1JL

- 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 David Hankinson against the decision of Bedford Borough Council.
 - The application Ref 20/00077/FUL, dated 14 January 2020, was approved on 20 March 2020 and planning permission was granted subject to conditions.
 - The development permitted is part demolition of existing single storey extension and erection of two storey rear extension.
 - The condition in dispute is No 4 which states that: *The new windows in the upper floor, southwest and northeast facing elevations serving the en-suite, bathroom and Master Bedroom shall contain no means of opening (unless any opening part of the window is at least 1.7 metres above the floor level of the room it serves) and the glass shall be an obscure glazed type at least level 3 glass as defined in the 'Pilkington Textured Glass Range'. The windows as inserted in accordance with those requirements shall be retained.*
 - The reason given for the condition is: *To safeguard the amenities of the adjoining occupiers in accordance with Policy 32 of the Bedford Borough Local Plan 2030.*
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Decision

1. The appeal is allowed and the planning permission Ref 20/00077/FUL for part-demolition of existing single storey extension and erection of two storey rear extension at Ailsa Villa, 49 Odell Road, Sharnbrook MK44 1JL granted on 20 March 2020 by Bedford Borough Council, is varied by deleting Condition 4 and substituting for it the following condition:
 - 4) Each upper floor window annotated as 'new window obscure glass' upon the approved plans referenced 103 Rev D and 104 Rev C, shall contain no means of opening (unless any opening part of the window is positioned at least 1.7 metres above the floor level of the room it serves), shall be of an obscure glazed type (at least level 3 glass as defined in the 'Pilkington Textured Glass Range') and shall be retained as inserted in perpetuity.

Main Issue

2. The main issue is whether or not the disputed condition is reasonable and necessary in the interests of protecting the living conditions of neighbouring residential occupiers, having particular regard to privacy.

Reasons

3. The two-storey rear extension that has planning permission (the extension) and that is the subject of this appeal has yet to be erected. At first floor level,

a master bedroom and associated en-suite facilities are to be provided. The south-western elevation is to contain, at first floor level, three window openings. As confirmed by the appellant and indicated upon the approved plans, one of these is intended to be obscure glazed in any event. It is the specification of the two remaining south-west facing openings (the new windows), which would serve the master bedroom, that are the focus of this appeal.

4. The site neighbours a residential property (Innisfree) to its south-western side. Between the appeal property and Innisfree there is positioned an intervening brick boundary wall of not insignificant height, some elements of planting and gravelled driveways. Innisfree is served by various window openings to its north-east facing elevation and by a conservatory (the conservatory) that has glazing installed to each of its external sides and that is situated in approximate alignment with where the new windows would face. I also noted on inspection the presence of a small paved external area next to the conservatory, upon/alongside which a table and chairs were sited.
5. The Residential Extensions, New Dwellings and Small Infill Developments Supplementary Design Guidance (January 2000) (the SDG) sets out that the normal privacy distance required between primary windows is 18m and states that, in instances where a primary window directly overlooks an adjacent house or garden, primary windows should not be located closer than 9m from the nearest boundary. A primary window, as defined in the SDG, is the main window within a habitable room.
6. Importantly, neither of the new windows would meet the SDG definition of a primary window. Indeed, to the extension's north-west elevation, the master bedroom would be served by a pair of double-glazed doors set behind a Juliette balcony, which would provide the main source of outlook from this room. The SDG's recommended distances, whilst providing of relevant context, are thus far from determinative when assessing the effects of the new windows in privacy terms. Indeed, a professional judgement is required whilst factoring in the particular site circumstances to hand.
7. In addition to existing south-west windows at ground floor, the appeal property is already served by a singular southwest-facing bedroom window at first floor level, which, when compared to the extension, is set closer to Innisfree. This existing window is positioned further forward upon the site (when compared to where the extension would be sited) and is not directly aligned with the conservatory. However, it still assists in highlighting that the conservatory and its adjacent external areas set to the side of Innisfree do not presently occupy an entirely private and secluded location.
8. The extension would be set a fair distance away from the appeal property's south-western boundary, which is an important factor in this case. Indeed, this separation distance would guard against the potential for unduly sensitive or harmful overlooking opportunities being created towards Innisfree. This is particularly when noting the new windows' secondary nature and relatively modest size. Furthermore, whilst planting cannot necessarily be relied upon to offer a permanent or solid buffer to views, it is the case that some (albeit limited) intervening vegetation exists that would provide additional assistance in ensuring no undue loss of privacy.

9. I have attached little relevance to the appellant's stated commitment to install window shutters, noting that such features could quite easily be left open for sustained periods. Furthermore, not least due to the outlook that is/would be provided by various other openings at the appeal property, I attach limited weight to any potential security benefit that could be offered by the new windows being of openable and non-obscure specification.
10. Nevertheless, for the reasons set out above, I find that disputed Condition 4, as currently worded, is not reasonable or necessary in the interests of protecting the living conditions of neighbouring residential occupiers, having particular regard to privacy. As such, should Condition 4 be altered to remove any requirement for the new windows to be obscure-glazed and non-opening, there would be compliance with Policy 32 of the Bedford Borough Local Plan (2030) in so far as this policy requires that particular attention be given to factors which might give rise to disturbance to neighbours and the surrounding community, including overlooking.
11. The Council has provided suggested amended wording for the disputed condition in the event the appeal be successful, which the appellant has had the opportunity to comment upon. For clarity purposes, I have made minor adjustments to the Council's suggested wording and this altered wording is set out under the opening paragraph to this decision.

Conclusion

12. For the above reasons the appeal is allowed. I will vary the planning permission by deleting and substituting the disputed condition.

Andrew Smith

INSPECTOR