



Appeal Decision

Site visit made on 18 August 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2020

Appeal Ref: APP/V3120/W/20/3252947

5 Tilbury Lane, Oxford, OX2 9NB.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Witherslack Group Ltd. against the decision of Vale of White Horse District Council.
 - The application Ref. P19/V0933/FUL, dated 12 April 2019, was refused by notice dated 26 November 2019.
 - The development proposed is alterations to off street parking arrangements in the front yard including taking down part of existing boundary walls. Installation of new sports netting in the rear garden, and first floor bedroom windows on South elevation.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The proposal described in the application forms is set out in full above, however, the Council has indicated that the alteration to the off-street parking area and removal of the front boundary wall do not require planning permission. Moreover, the appellant has stated that the appeal is made only against the enlargement of the windows in the south elevation of the property and not the netted games area and I have considered the appeal on this basis.

Main Issue

- The main issue is the effect of the development proposed on the living conditions of the occupiers of a neighbouring property.

Reasons

Background

3. The appeal site comprises a large detached two storey property and garden which fronts a private lane in a mainly residential area to the west of Oxford. The Council advises that the lawful use of the appeal property is Class C2 – Residential Institution¹ and is used as a children's home for up to 8 young people.
4. The proposal, which is retrospective, involves the enlargement/installation of two first floor windows on the south facing flank of the building facing towards the adjoining property, No. 3 Tilbury Lane, which is a bungalow.

¹ As defined in the Town and Country Planning (Use Classes) Order 1987, as amended.

Effect on living conditions

5. At the site visit I considered the effect of the windows from the front of the appeal site and from the garden of No.3 at the request of the owners, but I was not able to enter either building because of restrictions imposed to prevent the spread of the Covid19 virus. However, the appeal documents include photographs taken by the appellant's agent looking westwards out of window A and I have had regard to this photograph including when on site.
6. Submitted photographs also indicate that before the current work was carried out there were two windows at first floor level on this flank elevation. These were at a high level – that is a position above eye level. Replacement window A (furthest from the road frontage) is glazed with clear glass to which an obscure film has been applied, whereas window B is glazed with clear glass. The appellant's agent advises that the windows light children's bedrooms.
7. From the photographs submitted and my observations at the site visit, I am satisfied that the enlarged windows do not overlook the actual dwelling at No.3 as the principle 'straight ahead' view is over the main roof and rear flat roofs of the property and not towards windows. However, I am concerned that the position and extent of window B results in the overlooking of the private rear garden of No.3. The view is at an oblique angle but is of most of the useable private garden area of this property. Moreover, although the view from window A has been obscured, the position and extent of the window viewed from the outside contributes to a perception of the garden at No.3 being overlooked and dominated.
8. I find that the enlarged windows materially harm the living conditions of the occupiers of No.3 by causing direct overlooking of the private amenity space and creates a greater perception of being overlooked, resulting in a loss of privacy and amenity. The development therefore has a significant adverse impact on the amenity of neighbours and fails to meet the requirements of Development Policy 23 of the Council's Local Plan 2031 Part 2.
9. I have considered whether the harm I have identified could be overcome by alterations required to be undertaken by conditions but there is no such scheme before me nor is there an obvious and practical solution of reasonable mitigation.

Other matters

10. The letters of objection from neighbours also refer to other concerns associated with the use of the premises, but these are not before me in this appeal

Planning balance and conclusion

11. On the main issue I have found that the proposed replacement windows cause material overlooking of the adjoining private rear garden and a loss of privacy thus having a significant adverse impact on neighbours, contrary to the stated development plan policy. This harm is not outweighed by any other consideration, therefore the appeal should be dismissed.

David Murray

INSPECTOR