



Appeal Decision

Site visit made on 15 December 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Appeal Ref: APP/D5120/D/20/3258428

4 St James Way, Sidcup DA14 5ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 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 Stuart against the decision of the London Borough of Bexley Council.
 - The application Ref 20/00655/FUL, dated 16 March 2020, was refused by notice dated 20 July 2020.
 - The application sought planning permission for Single storey rear extension and raised terrace area, side and front extensions, alterations to roofline incorporating four dormer windows to provide rooms in roofspace (currently under construction) without complying with Condition 4 attached to planning permission Ref 18/02106/FUL, dated 28 January 2019.
 - The condition in dispute is No 4 which states that The windows shown in the flank walls of the building and within the flank dormers shall be fitted with obscured glass and made non-openable below a height of 1.7m above the finished floor level of the rooms they serve. The windows shall be maintained in accordance with the requirements of this condition thereafter.
 - The reason given for Condition 4 is to protect the amenities and privacy of the adjoining properties.
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Decision

1. The appeal is allowed and planning permission is granted at 4 St James Way, Sidcup DA14 5ER for Single storey rear extension and raised terrace area, side and front extensions, alterations to roofline incorporating four dormer windows to provide rooms in roofspace (currently under construction), without complying with condition 4 attached to planning permission 18/02106/FUL dated 28 January 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 001 Rev A, Proposed Floor Plan 004 Rev N, Proposed Elevations 005 Rev N.
 - 3) The screen fencing shown on drawing 2016-100-007 rev C shall be retained for the lifetime of the development.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers with regards to overlooking and loss of privacy.

Reasons

3. Condition 4 was attached to the parent permission¹ to obscurely glaze and fix shut windows to the flank walls and flank dormer windows. Works to implement this approval have commenced and the extensions are occupied.
4. Bedroom No 4 window is proposed to remain obscurely glazed. This window is positioned adjacent to the side elevation of No 1 Holt Close. The side elevation of this property has an obscurely glazed window. The gap between the side elevation and the boundary would not be clearly overlooked by allowing an openable window, and is more akin to a passageway than private outdoor space. No loss of privacy would occur.
5. As a consequence of having an opening window, there may be opportunity to view the front external space. This area is however not private. It would not result in the opportunity to directly overlook the neighbouring rear garden as the window is located in a position with the main dwelling obscuring the garden. On this basis, I find no harm would arise to the living conditions of the occupiers of this dwelling.
6. The landing window is obscurely glazed and fixed shut. It is circulation space and not habitable space. I conclude that the opportunity to open this window would not unduly compromise the living conditions of the occupiers of No 1 Holt Close.
7. To conclude, as I have found no loss of privacy would occur to the occupiers of No 1 Holt Close as a result of permitting openable windows, therefore the proposal would not conflict with Policy H9 of the Bexley Unitary Development Plan 2004 (UDP) in its aims to protect the privacy and amenity of residents. I find no direct relevance to Policy ENV9 of the UDP as this refers to the built environment as well as Policy CS01 of the Bexley Core Strategy 2012 as this relates more broadly to achieving sustainable development.

Other Matters

8. Both first floor bedroom No 3 and the ensuite bathroom of bedroom No 2 have windows that are obscurely glazed and fixed shut. The appellant intends to retain the obscure glazing, but with side opening.
9. As one window supports an ensuite bathroom which is not a habitable room, it is reasonable to come to the view that a loss of privacy by virtue of overlooking from this opening would not result in harm arising to the adjacent occupants. The bedroom is however a habitable room. Nevertheless, its location within the side elevation and proposed opening, would not provide clear views towards the neighbouring rear garden. This would be obscured by both the dwelling and their existing landscaping. Therefore, it would not result in harm arising to the living conditions of the neighbouring occupiers.
10. In respect of the ground floor cloakroom, bathroom, TV room and utility room, I find that the changes proposed would be minimal and would result in no

¹ Application 18/02106/FUL

significant change in circumstances as it would not unduly compromise the living conditions of the adjacent occupiers.

Conditions and Conclusion

11. Conditions are imposed to ensure compliance with the approved plans together with a time limit to implement the development are necessary to meet the tests of the National Planning Policy Framework. I have re-imposed the condition relating to the screen fencing in the interest of protecting the living conditions of neighbours.
12. The appeal is allowed.

Alison Scott

INSPECTOR