



Appeal Decision

Site Visit made on 11 May 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2021

Appeal Ref: APP/C4615/W/20/3264286

1A Alison Drive, Norton, Nr. Stourbridge DY8 2BD

- 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 & Mrs Turnbull against the decision of Dudley Metropolitan Borough Council.
- The application Ref P20/1188, dated 18 August 2020, was approved on 9 November 2020 and planning permission was granted subject to conditions.
- The development permitted is conversion of loft to form 2 bedrooms and a bathroom.
- The condition in dispute is No 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed roof windows to be installed in the side elevations of the building shall be: i) obscure glazed, ii) and non-opening. The windows shall be permanently maintained thereafter as obscure glazed and non-opening.*
- The reason given for the condition is: *In the interests of the privacy and amenity of surrounding residents and in accordance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing buildings.*

Decision

1. The appeal is allowed and planning permission is granted for the conversion of loft to form 2 bedrooms and a bathroom at 1A Alison Drive, Norton, Nr. Stourbridge DY8 2BD in accordance with the application Ref P20/1188, dated 18 August 2020, without compliance with condition 4 previously imposed on planning permission Ref P20/1188, dated 4 September 2020, subject to the following condition:
 - i) the development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Plans DRG No: 02/A and DRG No: 03/A.

Procedural matter

2. Notwithstanding the windows, at the time of my site visit the development proposed existed on site. I have therefore decided the appeal on the basis of what I saw on site, together with the evidence before me.

Main Issue

3. This is the effect that removing the condition would have on the living conditions of neighbouring occupiers, with particular regard to privacy.

Reasons

4. Policy L1 of the Dudley Borough Development Strategy (2017) seeks development that does not cause a loss of privacy. The bottom sill of all four windows in the roof space is at a high level. Consequently, visibility out of the windows is restricted to the sky and the higher reaches of nearby rooftops. In addition, the windows are recessed, which restricts the possibility of nearby gardens and living spaces being overlooked. Therefore, windows that can be opened and are clear glazed would not cause a loss of privacy and therefore would not be contrary to policy L1.
5. I appreciate that in views from surrounding residential properties, the very nature of windows being in the roof creates a sense of overlooking. However, based on my findings, this is a perceived lack of privacy, as opposed to actual.
6. Third parties suggest that had the Planning Officer not applied the condition, planning permission would have been refused. I do not wholly agree, given that the drawings proposed windows that were obscure glazed and fixed shut and 'for practical reasons', the Planning Officer applied condition 4. Irrespective of this, for the reasons given, I have found that the development is acceptable without the condition.
7. Reference is made by third parties to the appeal property being allowed on the proviso that windows would not overlook adjoining neighbours. I have no evidence of the decision to know if this was the case. Notwithstanding this, I have found that windows in the roofspace would be policy compliant.
8. Concerns have been raised for the impact the rear window would have on outlook and privacy. This window is not part of this appeal and is therefore not before me for consideration.
9. All in all, removing condition 4 would not have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to privacy, and in consequence, would not effect the acceptability of the original application.

Other matter

10. In light of the main issue identified above, concerns raised about odours from the soil vent pipe are not for consideration in this appeal. Nor is the process the Council took to making its decision on the planning application.

Conditions

11. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I have imposed all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
12. Having regard to the above and on the basis that the development which I am granting permission for is the same as that which has been started, I have not included a time limit for the commencement of development. I have also eliminated condition 3 on the basis that that any external alterations are in situ.

Conclusion

13. For the reasons given above and having regard to all other matters raised, I conclude that the appeal is allowed and planning permission is granted for the conversion of loft to form 2 bedrooms and a bathroom, without compliance with condition No.4 previously imposed on planning permission Ref P20/1188.

R Walmsley

INSPECTOR