



Appeal Decision

Site visit made on 4 May 2021

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/K2230/W/20/3250297

Mill View, Mill Hill Lane, Shorne, Gravesend, DA12 3HA

- 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 Colin Bruce against the decision of Gravesham Borough Council.
 - The application Ref 20191304, dated 16 December 2019, was approved on 2 March 2020 and planning permission was granted subject to conditions.
 - The development permitted is 'Proposed loft extension forming enlarged bedroom, dressing area and bathroom and double storey front kitchen extension'.
 - The condition in dispute is No 4 which states that: The first floor side (northeast and southwest) and rear (southeast) (dormer) windows of the development hereby approved shall be installed and retained in perpetuity as obscure glazed, to a level at least equal to Level 3 on the Pilkington Scale, and non-openable below a level of 1.7m above the adjacent internal floor level.
 - The reason given for the condition is: In the interest of neighbouring privacy, in accordance with Local Plan: Core Strategy Policy CS19.
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Decision

1. The appeal is allowed and the planning permission Ref 20191304 for a proposed loft extension forming enlarged bedroom, dressing area and bathroom and double storey front kitchen extension at Mill View, Mill Hill Lane, Shorne, Gravesend, DA12 3HA granted on 2 March 2020 by Gravesham Borough Council, is varied by deleting condition 4 and substituting for it the following condition:
 - (4) The first floor side (northeast and southwest) windows of the development hereby approved shall be installed and retained in perpetuity as obscure glazed, to a level at least equal to Level 3 on the Pilkington Scale, and non-openable below a level of 1.7m above the adjacent internal floor level.

Background and Main Issue

2. The Council has granted planning permission for a loft extension forming enlarged bedroom, dressing area and bathroom and double storey front kitchen extension. Condition 4 requires the first floor side (northeast and southwest) and rear (southeast) dormer windows to be obscure glazed and non-openable below a height of 1.7m above the adjacent internal floor area. The appellant seeks to vary this condition to remove reference to the rear (southeast) dormer window, thereby enabling it to be clear glazed and fully openable.

3. The main issue is the effect that varying the condition would have on the living conditions of the occupiers of the neighbouring dwellings.

Reasons

4. The appeal property is a chalet style dwelling with the extensions permitted under Ref 20191304 nearing completion. There are considerable changes in levels across the site, with the rear garden sloping down from the dwelling itself.
5. The newly constructed dormer window on the southeast elevation of the dwelling is angled such that direct views from it are over the driveway leading to dwellings in Manor Field. Angled views are also obtainable over the side garden and flank elevation of a property known as Potters Heron, which is situated in Manor Field. There are three habitable room windows on the flank elevation of Potters Heron, including a full height first floor window. There is also a glazed garden room to the rear of the dwelling.
6. There was previously a roof light on the rear elevation of the dwelling. The appellant states that clear views over towards Manor Field, including Potters Heron were obtainable from this window due to its positioning on the roof slope. However, I consider that the size and position of the dormer window would enable a more unrestricted outlook as an occupier could stand directly adjacent to the vertical glass surface of a dormer window.
7. The dormer window is positioned on the roof slope, slightly further back from the main rear wall of the dwelling. There is a separation distance of about 22 metres between the window and the flank elevation of Potters Mead.
8. The Council refer to the Residential Layout Guidance Supplementary Planning Guidance 2 (February 1996) (SPG). The SPG is for guidance purposes only and does not form part of the development plan. The SPG advises that where windows of habitable rooms face each other (whether across a road, pedestrian way or private garden) a window to window distance of at least 21 metres should be provided. Figure 1 details that for facing windows to habitable rooms, where there is a private garden area within the 'field of view' a 26 metre separation distance applies.
9. Whilst the dormer window would enable views over the side garden of Potters Mead, there is already a high level of intervisibility between the two dwellings due to the changes in levels. There is an existing conservatory to the rear of Mill View which is elevated above the rear garden of the property. Clear and largely interrupted views of the side garden and flank elevation of Potters Mead are obtainable from the conservatory. Moreover, these views are at a closer range than those obtainable from the dormer window. Furthermore, I also noted on my site visit that views of the rear garden and rear elevation of Mill View are also obtainable from Potters Mead.
10. Whilst the proposal would not meet the 26 metre separation guidance set out in the SPG, I consider that the resultant separation distance of around 22 metres is sufficient to ensure that the living conditions of the occupiers of both Potters Mead and the appeal property would be maintained. Given the existing levels of intervisibility between the two dwellings, the level of mutual overlooking would not be materially greater than that which currently exists. Although there is some conflict between the proposal and the guidance

contained within the SPG, it is important that the guidance should not be applied rigidly or exclusively when material considerations indicate an exception may be necessary.

11. For the reasons above, I do not consider that the use of clear glazing and unrestricted opening of the dormer window on the southeast elevation of the dwelling to be harmful to the living conditions of neighbouring occupiers. Having regard to the tests set out in Paragraph 55 of the National Planning Policy Framework (the Framework), I conclude that Condition 4 is unreasonable and unnecessary in this regard. I am also satisfied that there would be no conflict with Policy CS19 of the Gravesham Local Plan Core Strategy 2014 or the Framework insofar as they require development to safeguard the amenity of its occupants and those of neighbouring properties.

Conclusion

12. For the reasons above, I conclude that the appeal should succeed and that the planning permission should be varied as set out in the formal decision.

J Davis

INSPECTOR