



Appeal Decision

Site Visit made on 18 June 2021

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

Appeal Ref: APP/X2410/W/20/3262460

3 The Moorings, Barrow Upon Soar LE12 8GY

- 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 James Donald against the decision of Charnwood Borough Council.
- The application Ref P/20/0741/2, dated 23 April 2020, was approved on 25 September 2020 and planning permission was granted subject to conditions.
- The development permitted is a single storey rear extension with balcony above and external alterations including front and rear dormers and roof windows.
- The condition in dispute is the third [the conditions are unnumbered], which states that:
The proposed dormer window(s) in the front elevation to the dwelling shall be glazed with obscure glass to a privacy level 5 on the Pilkington scale (or equivalent), which shall thereafter be retained at all times and shall be non-opening. No changes shall be made to these windows nor shall any additional windows be inserted into this elevation thereafter.
- The reason given for the condition is:
To minimise the effect of the development on the privacy and amenities of nearby residents.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of undertaking the development in non-compliance with the above condition on the living conditions of residents at 4 The Moorings.

Reasons

3. The proposed front dormer window would be close to the boundary with No 4, which is a neighbouring house that stands forward of the appellant's, on higher land.
4. While the side elevation of the neighbour's dwelling is generally set back from the boundary with the appeal property, it has at the very front a room that extends nearly to the fenceline (the front room). This was shown on the original sales particulars for No 4 as being a bedroom, and certainly it now contains an en suite. The appellant said it was used as a games room, but when I visited it contained a television and sofas. I therefore consider it to be one of the dwelling's main habitable rooms.
5. Its principal window is in its rear-facing elevation and provides an outlook along the side garden of No 4 towards the river behind, through the gap between this dwelling and No 3. This window would be less than 11m from the

proposed dormer window and, although the 2 would be offset slightly, I consider their relationship would be sufficient to give rise to a high level of intervisibility. As such, if obscure glazing was not used in the dormer window, there would be an appreciable loss of privacy for the occupiers of No 4 in this room.

6. There is a clear glazed dormer window on the front elevation of No 3 at present, but that is further from the boundary giving a more acute relationship to the neighbour's affected window, and so has a negligible effect on the privacy that room provides. There are also some clear glazed rooflights at No 3 but they are much smaller than the proposed dormer window and so offer a far more limited outlook. Consequently, the front room does not at present experience an appreciable loss of privacy. Indeed, even if a number of rooflights could be installed in the front roof slope of No 3 without needing planning permission from the local planning authority (as suggested by the appellant), they would be broken into narrow strips by roofing in between and so the overlooking they would allow would not be as harmful.
7. Of the other windows cited by the neighbour as being affected, the first-floor bedroom window and the side window in the front room would have acute relationships to the proposed dormer window and so intervisibility would be limited. The patio doors are obscure glazed and open into a side lobby, and so, even if that is used as an occasional seating area, again any loss of privacy would not be unacceptable. Finally, there is outside patio seating to the side of No 4 by the boundary with No 3, but some diminution of privacy in a garden in a suburban setting is not, of itself, unreasonable.
8. Whilst the appellant has said his property is overlooked at present by various side-facing windows at No 4, they tend to look across his front parking area and so do not have a comparable effect on his privacy. Moreover, even if these did give rise to some loss of privacy that does not necessarily justify further harm being caused. The rear-facing window in the front room currently does not cause undue harm to living conditions at No 3 as it allows only very limited views into the appellant's house.
9. The entire rear-facing elevation of the bedroom that is to contain the proposed dormer window would be clear glazed with an aspect over the back garden and the river to the meadows beyond. Therefore, even with obscure glazing in the dormer window that room would offer an acceptable outlook, whilst ventilation of the room could no doubt be achieved through other means. An amended plan submitted with the appeal showed the dormer window in fact serving a dressing room, but to my mind an outlook from such a room is not necessary for suitable living conditions. Obscure glazing is not uncommon on the front elevations of properties and would not cause unacceptable harm to the appearance of the house. Finally, whilst obscure glazing would prevent surveillance of the front parking area, it has not been shown why security is such an issue or cannot be achieved some other way. I am therefore not satisfied that allowing such surveillance would justify the identified harm.
10. I have no reason to consider the permission to which the disputed condition is attached is inappropriate in any other respects.
11. Accordingly, I conclude that varying the permission so as not to require obscured glazing in the single front dormer window subject of this development could result in unacceptable harm to the living conditions at 4 The Moorings,

thereby conflicting with Policy CS2 in the *Charnwood Local Plan 2011 to 2018 Core Strategy* that requires development to protect the amenity of people who live nearby.

Conclusions

12. I therefor conclude that the appeal should be dismissed.

JP Sargent

INSPECTOR

