



Appeal Decision

Site Visit made on 14 September 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2021

Appeal Ref: APP/W3330/W/21/3276435

5 Langham Gardens, Taunton, TA1 4PE

- 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 Miss Alison Brown against the decision of Somerset West and Taunton Council.
 - The application Ref 52/21/0009, dated 15 March 2021, was approved on 21 April 2021 and planning permission was granted subject to conditions.
 - The development permitted is the installation of window at first floor level.
 - The condition in dispute is No 3 which states that:
The window hereby permitted at first floor level on the south elevation of the property shall be fitted with obscure glazing and fixed closed and shall thereafter be retained and maintained.
 - The reason given for the condition is:
To protect the amenities of adjoining residents.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) was published and came into force. In light of this, I have sought the views of the main parties in writing and any comments received have been taken into consideration.

Main Issue

3. The main issue is whether the condition is reasonable and necessary having regard to the effect on the living conditions of neighbouring occupiers, with particular regard to overlooking.

Reasons

4. The condition subject to the appeal relates to a proposed new window to the side elevation of the building, that would serve the second bedroom of a first floor flat. The new window would be positioned in the southern elevation, which projects forward of the front elevation of the neighbouring properties and would be positioned such that views of the internal space of the adjacent property would be possible, through a large first floor window to the front elevation, should the window be openable and clear glazed. This would have an unacceptable effect on the living conditions of this adjacent property, through overlooking. Even if the window was openable, hinged on the left-hand side, but obscurely glazed, views towards the neighbouring property would likely remain possible when the window was open.

5. I note that the appellant has submitted a photograph showing the window arrangement to the rear of a number of nearby properties, which shows windows that appear to be similarly arranged. However, from this information I am unable to determine whether these circumstances are similar in terms of the arrangement of internal space. Furthermore, this is an existing situation and does not convince me that the harmful effect of permitting an openable and clear glazed window at this location, that I have identified above, would be acceptable.
6. I note that the intention of the new window is to provide additional light for the appellant to undertake artwork within the room. However, there is nothing before me that convinces me that the light provided by an obscurely glazed window would not be sufficient. Additionally, the appellant asserts that the existing window does not provide sufficient opening to function as an escape in the event of a fire, nonetheless I see no reason why the existing window could not be altered to perform this function, particularly when the proposed window opening appears narrower than the existing. As such, these matters do not outweigh the harmful effect of allowing the window to be open or clear glazed.
7. Accordingly, I find that the condition is reasonable and necessary in the interests of protecting the living conditions of neighbouring occupiers, with particular regard to overlooking. Thus, the condition is necessary in order for the proposal to accord with policy DM1 of the Taunton Deane Core Strategy (2012) and policy DM5 of the Taunton Deane Adopted Site Allocations and Development Management Plan, insofar as they seek to ensure that development does not unacceptably harm the residential amenity of dwellings.

Conclusion

8. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR