



Appeal Decision

Site Visit made on 21 September 2021

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2021

Appeal Ref: APP/R1845/W/21/3275559

Manor House Farm, Hackmans Gate Lane, Hackmans Gate

- 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 S Hewitt against the decision of Wyre Forest District Council.
 - The application Ref 21/0096/FUL, dated 25 January 2021, was approved on 7 May 2021 and planning permission was granted subject to conditions.
 - The development permitted is replacement dwellinghouse, following demolition of existing dwellinghouse.
 - The condition in dispute is No 8 which states that: The side window in the boot / laundry room shall be designed to be top hung only and glazed with obscure glass and shall thereafter be retained as such. No further windows or other openings shall be formed in that elevation unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: To preserve the amenity and privacy of adjoining properties. To ensure that the development accords with Policy CP11 of the Adopted Wyre Forest District Core Strategy.
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Decision

1. The appeal is allowed and the planning permission Ref 21/0096/FUL for replacement dwellinghouse, following demolition of existing dwellinghouse granted on 7 May 2021 by Wyre Forest District Council is varied by deleting condition 8 and substituting it for the following condition:

8) The side window in the boot/laundry room shall be designed to be top hung only. No further windows or other openings shall be formed in that elevation unless otherwise agreed in writing by the Local Planning Authority.

Preliminary Matters

2. The appellant indicates that the requirement for the boot/laundry room window to be fitted with obscure glazing is the only element of the condition in dispute. I have considered the appeal on this basis.
3. Following the refusal of the application the new National Planning Policy Framework (Framework) has been published. There have been no fundamental changes to national planning policy relevant to the main issue in this appeal. Therefore, there has been no injustice caused to any of the appeal parties by my taking account of the revised Framework.

Main Issue

4. The main issue of the appeal is the effect that varying the disputed condition would have on the living conditions of the occupiers of adjacent properties at Manor Gardens, with particular regard to privacy.

Reasons

5. The appeal site is located at a higher level than the dwellings and their outdoor spaces at Manor Gardens. Nevertheless, the window subject to the disputed condition would be at ground floor level and set in from the boundary of the site. The adjacent gardens would create further separation to the nearest properties.
6. Whoever erected the existing boundary treatments, there is no clear case before me that this is unlawful or that the existing landscaping or fence is likely to be removed. As a result, views from the window would be directed towards the existing fence and landscaping rather than down towards the adjacent outdoor space at Manor Gardens.
7. The position of the window and the orientation of the adjacent properties means that views over the boundary treatments and vegetation would be angled, rather than directly towards, neighbouring windows. The window would serve a boot room/laundry room and would be unlikely to be occupied for any considerable amount of time.
8. Some overlooking between adjacent plots is not untypical. Although more so from properties into neighbouring gardens, this already occurs in Manor Gardens. No compelling evidence has been put to me that the windows in the same elevation of the original dwelling, that were closer to adjacent properties and outdoor spaces, were fitted with obscure glazing.
9. The above factors would prevent any significant overlooking from the window. Therefore, the element of the disputed condition requiring obscure glazing is not necessary or reasonable. The removal of this element would not unacceptably harm the living conditions of the occupiers of adjacent properties at Manor Gardens with regard to privacy.
10. The Council have not identified any other specific policy that the proposal conflicts with other than Policy CP11 of the Wyre Forest District Core Strategy. However, as this does not relate directly to living conditions it weighs neither for nor against the proposal in relation to the main issue. As such, I have assessed the issue with reference to the requirements of the Framework. The scheme would accord with the Framework where it seeks a high standard of amenity for existing and future users.

Other Matters

11. Permitted development rights regarding additional storeys does not affect my assessment of whether obscure glazing of the window in question is necessary or not. Disputes over the location of, and who erected, boundary treatments are outside the scope of this appeal.

Conclusion

12. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed with condition 8 varied as set out above. All other conditions remain as previously imposed.

Stuart Willis

INSPECTOR