



Appeal Decision

Site visit made on 27 September 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2021

Appeal Ref: APP/T1410/W/20/3271557

65 Moy Avenue, Eastbourne BN22 8UQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Natalie Edwards against the decision of Eastbourne Borough Council.
 - The application Ref PC/190908, dated 17 November 2019, was refused by notice dated 10 March 2020.
 - The application sought planning permission for single storey rear extension without complying with a condition attached to planning permission Ref EB/2012/0603(HH), dated 23 October 2012.
 - The condition in dispute is No 3 which states that: The proposed development shall be carried out in strict accordance with the drawing 12-18-210 received on 06/09/12.
 - The reason given for the condition is: For the avoidance of doubt and to ensure that the proposed development is carried out in accordance with the plans to which the permission relates.
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Decision

1. The appeal is allowed and planning permission is granted for single storey rear extension at 65 Moy Avenue, Eastbourne BN22 8UQ in accordance with the terms of the application, Ref PC/190908 dated 17 November 2019, without compliance with condition number 3 previously imposed on planning permission Ref EB/2012/0603(HH) dated 23 October 2012 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 12-18-210 received with application Ref PC/190908.
 - 2) The window on the chamfered (north facing) corner of the extension shall be permanently fixed shut and fitted with obscured glazing, in accordance with a glazing specification which shall be first submitted to and approved in writing by the local planning authority. Once installed, the window shall remain fixed shut and the obscured glazing shall be retained thereafter.

Procedural Matters

2. The extension has been constructed and is now occupied. The application before me seeks to vary the approved plans condition on the original planning permission, to facilitate the insertion of a window. The appellant states that this is required to provide greater light into the living areas.

3. The documentation refers to the original permission under Council reference 120581. However, I have taken the application number from the decision notice.
4. During my site visit, and at the prior written invitation of the neighbour, I was able to make an assessment from the rear garden of 67 Moy Avenue.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupier of 67 Moy Avenue, with particular reference to privacy.

Reasons

6. The proposed window would be inserted into the chamfered corner of the single storey rear extension. This wall faces diagonally towards the garden of 67 Moy Avenue and would be high enough in the wall for occupants of the extension to have a direct view over the boundary fence. The Council's principal concern is regarding the potential for overlooking. This would be a genuine problem, were it not for the fact that the window is proposed to be obscurely glazed and non-opening. Subject to the glass being specified to a high obscuration level, there would be no loss of privacy for the neighbour and no material harm to their living conditions. The proposal would comply with Policy B2 of the Eastbourne Core Strategy Local Plan (2013) and Saved Policy HO20 of the Eastbourne Borough Plan (2001-2011) insofar as these policies seek to protect the residential amenity of existing residents, including privacy.

Other Matters

7. The neighbour has raised concerns over the potential for light from within the appellant's property to illuminate the garden to No 67. Clearly there may be some impact in that regard, but I do not consider that it would be so significant as to justify dismissing the appeal on this ground.

Conclusion

8. For the reasons given above, I conclude that the appeal should be allowed. I have attached a condition specifying the approved plan and a further condition to secure details of obscured glazing and the fixing shut of the window, to protect the living conditions of the neighbour. The extension has already been constructed and therefore the standard commencement condition and matching materials condition on the original permission are no longer necessary.

Robert Parker

INSPECTOR