

Appeal Decision

Site visit made on 18 October 2021

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2021.

Appeal Ref: APP/L3815/D/21/3279436
50 Belgrave Crescent, Donnington PO19 8SB

- 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 Joanne Sykes against the decision of Chichester District Council.
 - The application Ref. D/21/00440/DOM, dated 12 February 2021, was refused by notice dated 29 April 2021.
 - The application sought planning permission for a single storey rear extension and change of use of loft into habitable accommodation, including dormer windows to sides without complying with a condition attached to planning permission Ref. D/20/01904/DOM, dated 5 October 2020.
 - The condition in dispute is No. 3 which states "Notwithstanding any indication shown on the approved plans and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order), the development hereby permitted shall not be first occupied until the first floor windows in the east and west elevations of the dormers hereby permitted shall be glazed with obscure glass and non-opening unless the parts of the windows which can be opened are more than 1.7metres above the floor of the rooms in which the windows are installed. They shall be retained at all times and shall not at any time be replaced by clear glazing."
 - The reason given for the condition is: "To protect the privacy of the occupants of the adjoining residential properties".
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension and change of use of loft into habitable accommodation, including dormer windows to sides at 50 Belgrave Crescent, Donnington PO19 8SB, in accordance with the application Ref D/21/00440/DOM made on 12 February 2021 without compliance with condition no3, previously imposed on planning permission Ref D/20/01904/DOM, dated 5 October 2020, with no conditions imposed.

Application for Costs

2. An application for costs was made in respect of this appeal and which is the subject of a separate decision.

Background and Main Issues

3. As highlighted above, planning permission was granted in October 2020 for the erection of a single storey rear extension and change of use of loft into habitable accommodation, including dormer windows to sides at the appeal site, 50 Belgrave Crescent.
4. Condition no3, imposed upon planning permission D/20/01904/DOM sought to prohibit first occupation of the roof extension until the first floor windows within both dormers, to the east and west roof elevations, were glazed with obscure glass and non-opening for all parts of the windows where below 1.7m above the floor of the rooms which they would serve.
5. The proposed development was substantially complete at the time of my site visit and I noted that the windows were obscured by a temporary material.
6. The reason for the imposition of the condition was to protect the privacy of the occupants of the adjoining residential properties; and therefore the main issue is the effect of the appeal proposal upon the living conditions of the occupants of 48 and 52 Belgrave Crescent, with specific reference to privacy.

Reasons

7. The application site is located within a well established residential area where there is a mix of dwelling types, including bungalows, chalet-bungalows and two plus storey houses. I noted on my site visit that similar dormers have been installed at 44 Belgrave Crescent and its relationship to no 46, also a bungalow, is not that dissimilar from the proposal before me.
8. Views afforded from the windows installed at the appeal site primarily overlook the roofs of nos 48 and 52, and whilst I accept that there could be a degree of overlooking towards the rear garden areas of these neighbouring properties, such views would be oblique. In any case, with the presence of other above ground floor level accommodation provided within some surrounding dwellings, a degree of mutual overlooking within the rear garden scene is inevitable.
9. I acknowledge that the condition imposed was in line with the requirements of Permitted Development Rights for first floor windows in side elevations, but the proposal before me was the subject of a planning application and therefore is not wholly relevant to this case. I also note that the Council acknowledged the presence of the gable end windows to the front and rear with the latter-most certainly facilitating some overlooking of neighbouring rear gardens, although the Council did not object to that being clear glazed.
10. Having regard to the fact that the principle views from said windows will be over the existing roofs of the neighbouring bungalows, I consider that in this particular case, the imposition of condition no 3 upon planning permission D/20/01904/DOM was not necessary. Therefore in allowing this appeal, I grant non-compliance thereto.
11. I find this complies with Policy 33 of the Chichester Local Plan Policies 2014 – 2029 which states for new residential development permission will be granted where it can be demonstrated, amongst other things, that the proposal respects the character of the surrounding area, including having regard to neighbouring and public amenity.

Conclusion and Conditions

1. As the proposed extensions and loft conversion are substantially complete it is not necessary to impose the standard three year implementation condition, neither is it necessary to require the development to be carried out either in accordance with the approved plans or that the materials to be used in the construction of the external surfaces of the development match those used on the pre-existing building. I therefore grant planning permission with no conditions.

C J Tivey

INSPECTOR