



Appeal Decision

Site visit made on 4 January 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 February 2022

Appeal Ref: APP/B1930/W/21/3283572

46 Wick Avenue, Wheathampstead AL4 8QA

- 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 and Mrs Jelfs against the decision of St Albans City Council.
 - The application Ref 5/21/1374, dated 10 May 2021, was granted approval by notice dated 7 July 2021 subject to conditions.
 - The development granted approval is described as 'Two storey front and side extension and rear pergola, alterations and additions to openings, new chimney and new side gate'.
 - The condition in dispute is No 4 which states that: 'The new upper floor side facing windows on the North Elevation facing No. 44 Wick Avenue shall be glazed in obscure glass and shall be non-opening below a height of 1.7 metres taken from internal finished floor level. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority'.
 - The reason given for the condition is: 'To maintain the privacy of adjoining residents. To comply with Policy 72 of the St. Albans District Local Plan Review 1994'.
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Decision

1. The appeal is allowed and planning permission is granted for a two storey front and side extension and rear pergola, alterations and additions to openings, new chimney and new side gate at 46 Wick Avenue, Wheathampstead AL4 8QA in accordance with the terms of the application, Ref 5/21/1374, dated 10 May 2021, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg Nos: 46WA-100-SK, Site Location Plan.
 - 3) The external surfaces of the development hereby permitted shall be constructed only of materials, the type and colour of which match exactly those of the existing building or as otherwise stated on the application form or approved plans.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published in July 2021. The main parties were given the opportunity to comment on the implications of the revised Framework. I am satisfied that no party has been prejudiced by my consideration of the appeal proposal in light of the revised Framework.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary in order to maintain the living conditions of adjoining residents.

Reasons

4. The appeal site is located on the corner of Wick Avenue and Maltings Drive. The proposed two storey side extension would project from the existing gable wall to a position close to the existing footway. Two windows are proposed in the new gable wall at first floor level. Neither of the windows in the new gable wall are shown on the proposed plans as having any opening elements (as opposed to others which are indicated to be openable).
5. The window to the proposed en suite to the main bedroom is labelled on the approved plan (Drawing No. 46WA-100-SK) as obscure or opaque glass. However, the Council indicate that a condition is required to ensure that the window is maintained as such in perpetuity. In this regard I find compliance with the approved plans is required by virtue of condition 2 and any variation to that condition would require approval from the Council. Consequently, an additional condition requiring it to be obscure glazed, and non-opening, is not necessary.
6. The view from the new first floor side facing window serving the proposed main bedroom would be primarily along Wick Avenue. As opposed to the en suite window, that is not proposed to be obscured or opaque (and therefore it would inherently, afford a view). However, the view would encompass the front gardens of the properties to the north of the appeal site. These areas are clearly visible from the public realm and other properties in the area, and the scheme would consequently not result in a meaningful loss of privacy in that regard.
7. The unobscured window would also face towards the gable wall of 44 Wick Avenue. I noted on my site visit that there were no windows in the gable elevation of that property and consequently I am satisfied that there would be no intrusion of privacy into rooms within No 44. Views into the rear garden of No 44 would be severely restricted by the projection in the proposed new gable wall, the acute angle of view and the distance between the observer and the garden. Any views would be no more intrusive than those from other nearby properties in Wick Avenue or Maltings Drive.
8. In light of the above I find that condition 4 is not necessary to prevent unacceptable adverse effects on the living conditions of adjoining residents. Consequently, the resultant development would not be contrary to the Policy 72 of the St Albans District Local Plan Review 1994 which, amongst other matters, requires all development to ensure good living conditions for existing and neighbouring buildings. Similarly, no conflict would arise with Framework paragraph 130. F) which seeks to maintain a high standard amenity for all.

Conclusion

9. I therefore conclude that the appeal should be allowed, and a new planning permission granted without the disputed condition, but retaining those non-disputed conditions from the previous permission that are still relevant.

John Gunn

INSPECTOR