



Appeal Decision

Site visit made on 1 February 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2022

Appeal Ref: APP/W3005/D/21/3286774

21 Chestnut Gardens, Sutton in Ashfield, Nottinghamshire, NG17 1LT

- 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 Edward Turton against the decision of Ashfield District Council.
 - The application Ref V/2021/0438, dated 2 June 2021, was approved on 20 August 2021 and planning permission was granted subject to conditions.
 - The development permitted is a 2 storey rear extension and alterations to existing property.
 - The condition in dispute is No.3 which states that: The bedroom window at first floor level in the north-east rear elevation and the bathroom window in the north-west side elevation shall be glazed in obscure glass with a non-opening window below 1.7m from floor level and maintained as such in perpetuity. Such work to be completed prior to the commencement of use of the hereby permitted development.
 - The reason given for the condition is: To protect the privacy of neighbouring properties in the vicinity of the proposal.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. The planning permission included a condition which, in part, required the first floor window in the north-east elevation of the extension to be obscure glazed and non-opening below 1.7m from floor level, and maintained as such in perpetuity. The reason given for imposing the condition is to protect the privacy of neighbouring properties in the vicinity of the proposal, specifically the occupants of 17 and 19 Chestnut Gardens (No.17 and No.19). The appellant objects to this part of the condition but has no objection to the remainder of the condition.
3. The main issue is therefore whether this part of the condition is reasonable or necessary in the interests of safeguarding the living conditions of the occupants of No.17 and No.19, with particular regard to privacy.

Reasons

4. The existing first floor windows in the rear of the appeal dwelling allow very restricted views of the upper section of the conservatory windows at the side of No.17 and limited views into parts of their private rear garden. There are also more open views into the private garden of No.19, but the set back of the appeal property ensures that not all of the garden is visible.

5. The window, which is the subject of this appeal, without obscure glazing, would afford clearer views of the conservatory windows to No.17 and allow more overlooking of their garden, and from a closer vantagepoint than existing windows. The effect would be to further reduce the privacy enjoyed by the occupiers of No.17.
6. The new gable of the approved extension would be virtually in line with the main rear elevation of No.19 and the window in question, without obscure glazing, would enable an outlook across all of its rear, private garden. These closer and more extensive views would cause far greater harm to the privacy of the occupants of No.19 than views currently afforded from the existing first floor windows of the appeal dwelling.
7. Without the obscure glazing in the first floor window of the north-east elevation I find the proposed extension would be harmful to the living conditions of the occupants of No.17 and No.19, with particular regard to privacy.
8. I therefore find this part of the condition is reasonable and necessary and its imposition is in accordance with the development plan, specifically policy HG7 of the Ashfield Local Plan Review (2002) and the Supplementary Planning Document 'Residential Design Guide' (2014) which together seek to ensure good design and to safeguard the living conditions of nearby residents. It would also be contrary to the high quality design expectations of section 12 of the 2021 National Planning Policy Framework.

Other Matters

9. I have had regard to the two storey rear extension at 3 Chestnut Gardens which the appellant claims has first floor windows without obscure glazing in the gable of the extension, the design of which is similar to theirs. However, whilst I only have limited information relating to this property, it is apparent that the appeal dwelling is much closer to neighbouring properties, with a very different siting and alignment. These extensions are not therefore directly comparable, and in any event each case must be considered on its own merits.

Conclusion

10. For the reasons given and having had regard to all other matters raised I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR