



Appeal Decision

Site Visit made on 1 March 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/M4320/W/21/3278769

2 Argyle Road, Southport PR9 9LH

- 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 David Black against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2021/00732, dated 16 March 2021, was approved on 13 May 2021 and planning permission was granted subject to conditions.
 - The development permitted is alterations to the side elevation at lower ground/ ground floor level, and the erection of a detached outbuilding at the rear to replace the existing garage (part retrospective).
 - The condition in dispute is No 2 which states that:
 - 'a) The new window to the side elevation shall be fitted with obscured glazing to a specification of no less than level 3 of the Pilkington Glass Scale and any part of the window that is less than 1.7m above the floor of the room in which it is installed shall be non-opening.*
 - b) The windows shall be permanently retained in that condition thereafter.'*
 - The reason given for the condition is:
 - 'To ensure that the privacy of neighbouring occupiers is retained at all times.'*
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Decision

1. The appeal is allowed and planning permission Ref DC/2021/00732 for alterations to the side elevation at lower/ground floor level and the erection of a detached outbuilding at the rear to replace the existing garage (part retrospective) at 2 Argyle Road, Southport, PR9 9LH, granted on 13 May 2021 by Sefton Metropolitan Borough Council, is varied, by deleting condition 2.

Background and Main Issue

2. Planning permission has been granted for alterations to the side elevation of 2 Argyle Road and for the erection of a detached outbuilding. This was subject to condition 2, which requires obscure glazing to be installed in the new window in the altered side elevation of No 2, and that any part of this window that is less than 1.7 metres in height above the floor of the room it is installed in is non-opening. On my site visit I saw that the development has already been carried out without obscure glazing or these non-opening restrictions.
3. The main issue is whether the condition is reasonable or necessary in the interests of the living conditions of the occupiers of 4 Argyle Road, with particular regard to privacy.

Reasons

4. The appeal relates to a large detached property that is located in a predominantly residential area that is characterised by similar sized properties and apartment blocks that have long back garden spaces.
5. The side window in question faces an approximate 1.8 metre high boundary wall and a small portion of 4 Argyle Road's garden area that is located in between this neighbouring property's side elevation and a prefabricated garage. The topography of the site is such that the side window is in an elevated position.
6. Nonetheless, the submitted plans indicate that it is only around 1.5 metres closer to the shared boundary with No 4 than a comparably sized window that was previously positioned in a similar location in the original side elevation of the property. In addition, there is an intervening driveway and gap more than 2 metres between this window and the shared boundary wall.
7. On my site visit I saw that the majority of the indirect views of the small cellar window within the side elevation of No 4 from the side window are obscured by the boundary wall. Whilst I acknowledge that the level of overlooking of No 4's rear garden area has increased by the development, the window in No 2's side elevation is positioned at an oblique angle and a substantial distance away from the main area of garden closer to the rear house which would usually be the more private area.
8. In any event, views of the neighbouring garden are already obtained from within No 2, through other gable windows at a higher level on the first and second floors. I am also mindful that a degree of mutual overlooking of garden areas is a common feature in this residential area, with a number of windows positioned within the side elevations of neighbouring properties.
9. In this context, I consider that although clear glazing gives rise to limited overlooking of No 4's rear garden area, it is within acceptable limits. Furthermore, although other windows serving No 2 may be capable of providing a means of escape, there is little substantive evidence before me to demonstrate that the opening restrictions are required. I therefore conclude that the disputed condition is not reasonable or necessary in the interests of the living conditions of the occupiers of No 4 Argyle Road, with particular regard to privacy.
10. As such, the development without the disputed condition does not conflict with Policy HC4 of A Local Plan for Sefton 2017. Amongst other matters, this requires house extensions and alterations to be designed so that there shall be no significant reduction in the living conditions of the occupiers of neighbouring properties, including through a significant loss of privacy for neighbouring residents.

Other Matters

11. I appreciate that there are other windows that serve the kitchen of No 2, and that obscure glazing would not cause harm to the living conditions of its occupiers through loss of light. However, the lack of harm in this respect would be a neutral factor that does not justify withholding planning permission in this case.

12. I have also had regard to the local resident's concerns about the quality of the building work that has taken place. Nonetheless, this has had no bearing on the outcome of this appeal as I have assessed the case based on its planning merits.

Conclusion

13. For the reasons given above, I shall therefore allow the appeal and vary the original permission by deleting the disputed condition.

Mark Caine

INSPECTOR