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# Appeal Decision

Site visit made on 31 May 2022

by **Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS**  
an Inspector appointed by the Secretary of State.

**Decision date: 16 June 2022**

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**Appeal Ref: APP/R1010/D/22/3294811**  
**Claylands Farm, Claylands Road, Whitwell S80 4SZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990. against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Trott against the decision of Bolsover District Council.
  - The application Ref 22/00002/FUL, dated 4 January 2022, was refused by notice dated 16 February 2022.
  - The proposed development is the proposed first floor extension and alterations (alternative scheme with glazed gable).
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## Decision

1. The appeal is allowed, and planning permission is granted for a first-floor extension and alterations (alternative scheme with glazed gable) at Claylands Farm, Claylands Road, Whitwell, S80 4SZ in accordance with the terms of application 22/00002/FUL, dated 4 January 2022, and subject to the following conditions:
  - i) The development hereby permitted shall begin no later than three years from the date of this decision.
  - ii) The development hereby permitted shall be carried out in accordance with the following approved plans: S120/1061/1 Existing Layout & Elevations; S120/1061/2 Rev A Proposed Layout & Elevations.

## Procedural Matters

2. A similar scheme has already been approved<sup>1</sup> excepting for the inclusion of glazing on the northwest facing elevation at first floor.

## The Main issue

3. The main issue is the impact upon the residential amenities of the occupants of 2, Claylands Farm by overlooking from the first-floor windows on the rear elevation of the proposed development.

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<sup>1</sup> Ref 21/00549/FUL

## Reasons

4. The proposed extension includes a north-western elevation with fully glazed bi-fold doors. The appeal property is not parallel with its boundary with the adjacent dwelling at 2 Claylands Farm. Rather than the first-floor extension being set at 90 degrees to the boundary it is set at approximately 75 degrees to it, and which means that there is a greater degree of overlooking of part of the garden of the adjacent property.
5. The angle of the proposed extension to the boundary means that much of the glazing would be within about 5 metres or less of the boundary with 2 Claylands Farm. The Council's Development Guidance and Requirements: Supplementary Planning Document 2015 (SPD) states that *'habitable room windows that overlook neighbouring garden space should normally be at least 10 metres from the boundary. Where a new property overlooks an existing garden, these distances may need to be increased. Oblique or obscured outlook from habitable room windows within 10m of the boundary may be allowed at the discretion of the case officer dependent upon site specific considerations'*.
6. In this instance, while there would be more overlooking of the neighbouring garden than if the proposed extension were set at 90 degrees to the boundary, and which would be a more normal situation in terms of any overlooking, the extra degree of overlooking would not be so additionally significant. Furthermore, on my site visit, I was able to observe that the occupants of Claylands Farm have undertaken planting along the boundary with the appeal property in order to reduce any overlooking and that this has already, very largely achieved that effect.
7. Therefore, I conclude that, while there would be some conflict with the SPD, the overlooking would be oblique, and the SPD allows some latitude in such circumstances. In addition, the proposed development would accord with policy SC3 of the Council's Local Plan 2020(LP) which requires high quality development.

## Other Matters

8. A similar scheme to the appeal proposal (other than the bi-fold windows) has been approved and to which I give significant weight in the decision-making process. The LPA notes that there would be a 12 metre separation distance between the proposed extension and the side elevation of the neighbouring dwellings and considers that there would be minimal impact in terms of daylighting. I see no reason to disagree.
9. The LPA states that the appeal dwelling is a non- designated heritage asset, though I have no other details before me. Paragraph 103 of the National Planning Policy Framework 2021 (the Framework) notes that *'the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced*

*judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset’.*

10. However, a similar scheme has already been approved and neither of the main parties have advanced a case that harm would be caused to the significance of the non-designated heritage asset, and I have no reason to depart from that position.

### **Conditions**

11. I have imposed the standard time condition and a condition to ensure the development is in accordance with the approved plans in the interests of certainty.

### **Conclusion**

12. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Steven Hartley*

INSPECTOR