



Appeal Decision

Site visit made on 16 September 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2022.

Appeal Ref: APP/U3935/W/22/3296124

49 Church Walk South, Rodbourne Cheney, Swindon SN2 2JE

- 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 Miss Tina Parker-Royle against the decision of Swindon Borough Council.
 - The application Ref S/HOU/21/0836/EMMI, dated 26 October 2021, was approved on 7 January 2022 and planning permission was granted subject to conditions.
 - The development permitted is described as 'Retention of 2 no. front dormer windows, window to first floor south elevation, window and door to ground floor south side elevation and rear dormer Juliet windows (retrospective)'.
 - The condition in dispute is No 2 which states that: Within 3 months of the date of this permission the south elevation first floor window (side) shall be obscurely glazed to a privacy level of 4 or above and be fitted with a restrictor to prevent it from being openable.
 - The reason given for the condition is: In the interests of residential amenity.
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Decision

1. The appeal is allowed and planning permission Ref S/HOU/21/0836/EMMI for Retention of 2 no. front dormer windows, window to first floor south elevation, window and door to ground floor south side elevation and rear dormer Juliet windows at 49 Church Walk South, Rodbourne Cheney, Swindon SN2 2JE is varied by deleting condition 2.

Preliminary Matters

2. The description of development above was taken from the decision notice for the planning permission, as opposed to the original application form. The description was amended by the local planning authority to reflect the development more accurately and succinctly.

Background and Main Issue

3. The appellant previously secured planning permission (ref: S/HOU/20/0958) to extend No. 49 Church Walk South. I understand that works on the development progressed but not in accordance with the approved plans. The appellant therefore applied to regularise the works that had been undertaken without permission, including the insertion of a window at first floor level in the south (side) elevation of the property.
4. Planning permission S/HOU/21/0836/EMMI was subsequently granted to regularise the works, but included a condition that within three months of the permission the first floor window in the side elevation was to be obscurely glazed and restricted from opening. This was deemed necessary to protect the

amenity of the occupiers of No. 48 Church Walk South. The current appeal seeks to remove this condition.

5. The main issue is the whether the condition is necessary to protect the living conditions of the occupants of No. 48 Church Walk South, with regards to privacy.

Reasons

6. Church Walk South is a primarily residential street containing a variety of property styles. The appeal property is a detached bungalow that has had its loft converted. No. 48 Church Walk South (No. 48) is also a detached bungalow that lies to the south of the appeal property, at a slightly lower level. Both the appeal dwelling and No. 48 are set off the shared boundary.
7. The window subject of the appeal is relatively small in scale and set at a high-level within the side elevation of the host property. The window serves an upstairs bedroom. It is not the principle window for the bedroom with further glazing in the form of dormer windows (to the front) and Juliet doors (to the rear) providing the main outlook and light-sources to this space.
8. The appellant states that the side elevation window is set approximately 1.4m above the floor level. From my observations on site, it was apparent that due to the window's height it only provided views of the skyline from most of the bedroom. Even when stood adjacent to the window, the view remained predominantly of the skyline and roofscape of neighbouring dwellings to the south.
9. Views from the appeal window towards the living room window of No. 48 are in practice possible. However, these are highly limited and impractical to hold for any significant period. This is due to the height of the appeal window and its deep cill, which means that it is necessary to almost lean on the glazing of the appeal window to gain such a view. Furthermore, both the appeal window and neighbour's living room window are small in scale and due to their differences in height are not directly orientated to one another. As such, I do not consider that the development results in harmful overlooking or loss of privacy to the living room of No. 48.
10. Similarly, although the appeal window can provide views towards the neighbouring conservatory and garden space, these are only achievable by being position very close to the glazing. Again, due to the window's placement and the widow-cill depth, this is impractical to achieve. Even then, such views of the conservatory and garden are oblique and constrained in nature. More expansive views of the rear garden of no. 48 are also already available from the Juliet doors serving the bedroom of the appeal property.
11. Overall, I have found that the absence of obscure glazing and the ability to open the appeal window does not result in harmful overlooking or loss of privacy to the occupiers of No. 48. The Council officer's report also referred to the perception of being overlooked in its reasoning for the proposed condition. However, in this instance, given the lack of any meaningful loss of privacy and the small scale and location of the appeal window, I do not consider that a perception of being overlooked is sufficient to justify the retention of the condition.

12. Consequently, I find that the disputed condition is not necessary in the interests of protecting the living conditions of the occupants of No. 48 Church Walk South. The development without the disputed condition would thus comply with Policy DE1 of the Swindon Borough Local Plan 2026 (adopted 2015). The policy seeks to ensure that development proposals are of a high quality of design, which amongst other matters, takes account of amenity considerations, including privacy.

Other Matters

13. I understand the frustrations of the neighbouring occupiers with regards to the planning process. However, the appeal has been determined on its own merits.

Conclusion

14. For the reasons set out above, I conclude that the appeal should be allowed and I vary the planning permission by deleting the disputed condition.

Lewis Condé

INSPECTOR