



Appeal Decision

Site visit made on 1 November 2022

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 22 November 2022

Appeal Ref: APP/R0660/W/22/3300993

12 Valley Way, Knutsford WA16 9AJ

- 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 Michael Potter against the decision of Cheshire East Council.
 - The application Ref 21/5469M, dated 25 October 2021, was approved on 19 May 2022 and planning permission was granted subject to conditions.
 - The development permitted is the demolition of existing single storey side extension, garage and utility. Construction of 2 storey side and rear extensions and single storey extension to the front. General refurbishment and alterations.
 - The condition in dispute is No 6 which states that: *'The utility, kitchen, en-suite and bedroom 1 windows in the northwest facing elevation shall be glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration. The window(s) shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. The window shall be kept at this level of obscurity at all times thereafter'.*
 - The reason given for the condition is: *'To protect the residential amenities of the occupants of adjoining property'.*
-

Decision

1. The appeal is allowed and planning permission Ref 21/5469M for the demolition of existing single storey side extension, garage and utility. Construction of 2 storey side and rear extensions and single storey extension to the front. General refurbishment and alterations at 12 Valley Way, Knutsford WA16 9AJ granted on 19 May 2022 by Cheshire East Council, is varied, by deleting condition 6 and substituting it with the following condition:
 - 1) The utility, kitchen, en-suite and bedroom 1 windows in the north west facing elevation shall be glazed using obscured glass to a minimum of level 3 of the "Pilkington" scale of obscuration. The windows shall be kept at this level of obscurity at all times thereafter.

Background and Main Issue

2. Planning permission for the single storey front extension and 2 storey side and rear extensions, included condition 6, which requires obscure glazing to be installed in the side windows of the utility room, kitchen, en-suite and bedroom 1. Any part of these windows that are less than 1.7 metres in height above the floor of the room they are installed in are also required to be non-opening.
3. On my site visit I saw that the extensions have already been constructed, and that the windows in the north west side elevation have been provided with obscure glazing. However, other than for the window in bedroom 1, these have not been fitted out with the non-opening restrictions. A revised plan has also been submitted with the appeal. Nonetheless, for the avoidance of doubt, my

determination of the appeal is based on the drawings submitted to and determined by the Council.

4. The main issue is whether the condition is reasonable or necessary in the interests of the living conditions of the occupiers of 10 Valley Way, with particular regard to privacy.

Reasons

5. The appeal dwelling and the adjacent property at No 10 sit at the end of the Valley Way cul-de-sac, which is residential, and characterised by similar detached houses. The appellant accepts the need for the windows within the north west side elevation of the approved side extension to be obscurely glazed in order to protect the privacy levels of the occupiers of No 10. I have no substantive reason to disagree with this, and the appeal therefore centres upon whether the non-opening restrictions are reasonable and necessary.
6. My site observations confirmed that views of No 10's ground floor side windows, from the kitchen windows, when opened, are obscured by the approximate 1.8 metre high shared boundary fence that is located only approximately 0.9 metres away from them. I also saw that the high level first floor window in bedroom 1 is non-opening. Even if this was not the case, the narrow size and raised height of this opening would ensure that no undue amount of overlooking, if opened, would occur.
7. Furthermore, an en-suite is not a habitable room, where a resident would expect to spend a considerable amount of time. The windows within these rooms do not directly face any openings within No 10, and their respective bathroom facilities ensure that it is not possible to stand directly in front of them. The majority of the views of the rear garden areas from these openings are also at an acute angle.
8. In light of the above, I am therefore satisfied that when opened, these windows would not have a materially unacceptable effect on the living conditions of the occupiers of No 10 through direct or perceived overlooking. Condition 6 in its current form, is therefore not reasonable or necessary. As such, it is required to be removed and replaced by a condition that refers to the windows being obscurely glazed but omits the requirements for non-opening restrictions.
9. Therefore, deleting and replacing condition 6 would not, in my view, conflict with Policy SE1 of the Cheshire East Local Plan Strategy 2010-2030 (2017) and DC3 and DC38 of the Macclesfield Borough Local Plan (2004). Amongst other things, these seek to safeguard residential amenity and ensure an appropriate level of privacy for new and existing residential properties.

Conclusion

10. For the reasons given above, I shall therefore allow the appeal and vary the original permission by deleting and replacing condition 6 with a condition that refers to obscure glazing only.

Mark Caine

INSPECTOR