



Appeal Decision

Site visit made on 12 January 2023

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2023

Appeal Ref: APP/J1535/D/22/3312132

12 Ravensmere, EPPING, CM16 4PS

- 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 Mrs M. Eichhorn-Schurig against the decision of Epping Forest District Council.
 - The application Ref EPF/1687/22, dated 19 July 2022, was refused by notice dated 23 September 2022.
 - The development proposed is the insertion of a window in the southern elevation.
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Decision

1. The appeal is allowed and planning permission is granted for the insertion of a window in the southern elevation at 12 Ravensmere, EPPING, CM16 4PS, in accordance with the terms of the application, Ref EPF/1687/22, dated 19 July 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The window hereby permitted shall be inserted not later than 6 months from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0946 01 Rev 2
 - 3) The window hereby permitted in the southern flank elevation of the house shall be fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.

Main Issue

2. The main issue in this case is the effect of the proposed window on the living conditions of the occupier of No 13 Ravensmere, by way of privacy.

Reasons

3. No 12 is a large, 4-bedroomed detached house, situated at the eastern end of Ravensmere, which is a residential cul-de-sac. It has been recently extended and the window that is the subject of this proposal is already in existence on the first floor of the southern side elevation of the dwelling. It consists of three panels, with the two outer panels being openable. At the time of my visit, the three window panes had been rendered opaque. This part of Ravensmere slopes down from north to south, such that No 12 is set at a higher level than the neighbouring No 13 to the south.

4. Policy DBE9 of the Council's Local Plan (LP) indicates that new development should not result in an excessive loss of amenity for neighbouring properties, including by way of overlooking. Policy DM9 of the Emerging Local Plan (ELP) indicates that new development should take account of the privacy and amenity of its users and neighbours. In the light of the advanced stage of production of the ELP, I afford it substantial weight.
5. The Council contends that the positioning of the non-obscure glazed window on the first floor south-side elevation, causes significant undue overlooking into the private amenity area of no.13 Ravensmere, and that such overlooking causes the neighbour a substantial loss of privacy.
6. The appellant contends that the window does not result in significant or undue overlooking of the private amenity area of No.13 and therefore causes no substantial loss of privacy to the occupier. Moreover, the area has an established expectation of overlooking between sites due to its sloping topography and the proposed/existing window has replaced two previous windows and a balcony that had a much bigger capacity for overlooking. Finally, she notes that the room served by the window, originally intended as a study, is also now used as a spare bedroom and that there is a need for opening windows for ventilation and to operate as an escape route.
7. The principle of a window in the same position as that of the current proposal was established by planning permission ref: EPF/2524/14, albeit that it was to have only two panels. That permission gave conditional approval, and the window was subject to Condition 3 which stated that 'all proposed window openings in the southern flank elevation shall be fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition'. The reason given was to 'prevent overlooking and loss of privacy to the occupants of neighbouring properties'.
8. The window as currently in existence looks over part of the side/rear garden area of No 13 from a high position, and also has views into bedrooms at No 13, albeit at an oblique angle. The occupiers of No 13 have recently constructed a large outbuilding to the side of the house, which reduces visibility into the private amenity areas at that property to a degree. Nevertheless, the side window in No 12 continues to overlook the house and part of the amenity space at No 13 and the same reasoning that led to the use of Condition 3 on the earlier permission holds true.
9. The fact that the existing window contains three panels, as opposed to the two on the approved plans for the earlier scheme, does not affect the conclusion that the principle of the window is established, but I consider that the window should still be restricted to a design that protects against overlooking and loss of privacy to the occupiers of No 13. On that basis, I find that, subject to a condition requiring the use of opaque glazing and non-opening frames below 1.7 metres above floor level, the appeal should be allowed, and that the window would not conflict with Policy DBE9 of the LP, or Policy DM9 of the ELP.
10. With regard to the issue of ventilation, I am satisfied that ventilation to this small room could be provided by having opening windows at a height of above 1.7 metres. With regard to the issue of secure escape, I note that all of the 4 bedrooms appear to have windows with access to a flat roof, and that these could, therefore, provide alternative escape routes.

Conditions

11. I have attached a condition relating to the time within which a compliant window must be inserted, because the window opening is already in place and it is necessary that the opaque glazing and fixed window frames be installed at the earliest opportunity, in order to ensure protection of the residential amenities at No 13 Ravensmere. I consider 6 months to be a reasonable length of time within which to replace a window frame.
12. I have attached a further condition relating to plans because it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. Finally, I have attached a further condition relating to opaque glazing and fixed window frames in the interests of protecting privacy at the neighbouring No 13 Ravensmere.

J D Westbrook

INSPECTOR