



Appeal Decision

Site visit made on 16 January 2023

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2023

Appeal Ref: APP/P1940/D/22/3312909

44 Sandy Lodge Road, Moor Park, Hertfordshire WD3 1LJ

- 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 A Mohammed against the decision of Three Rivers District Council.
 - The application Ref 22/1119/RSP, dated 10 June 2022, was refused by notice dated 11 November 2022.
 - The development proposed is described as a 'retrospective application for two proposed additional roof lights at the rear'.
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Decision

1. The appeal is allowed and planning permission is granted for two roof lights to the rear in accordance with the terms of the application, Ref 22/1119/RSP, dated 10 June 2022, annotated as roof lights B1 and B2 on drawing nos. 23219-08 Rev C, 23219-09 Rev C and 23219-10 Rev D, subject to the following condition:
 - 1) Within 2 months from the date of this decision, roof light B1 hereby permitted shall be fixed shut and obscurely glazed and shall be permanently retained as such thereafter. In the event of a legal challenge to this decision, the operation of the time limit specified in this condition will be suspended until that legal challenge has been finally determined.

Procedural Matters

2. The appeal property has a lengthy planning history and I note that, at the time the Council published its delegated report, an enforcement enquiry was pending regarding changes to its fenestration, and a balcony, which were allegedly not in accordance with a previous planning permission.
3. However, as agreed by the appellant and the Council, the development the subject of this appeal relates only to two roof lights serving a second floor bedroom, and which are already in place. Consequently, whilst representations have been made regarding other development on the site and concerning the planning process and the retrospective nature of applications, in my decision I have considered only the impact of these two roof lights, which I have dealt with on their planning merits.
4. Those roof lights are shown as 'B1' and 'B2' on drawing nos. 23219-08 Rev C, 23219-09 Rev C and 23219-10 Rev D. According to those drawings, B1 would be obscurely glazed and fixed shut, but B2 would not.

5. However, I observed on my visit that both those roof lights appeared to be opening, and that neither was obscurely glazed. I have therefore dealt with this scheme as the retention of the existing roof lights, and I have addressed the matter of their opening and glazing in my reasoning.
6. Finally, whilst the site falls within the Moor Park Conservation Area, having regard to the size, position and profile of the roof lights, the Council considers that they have not harmed its character and appearance. For similar reasons, I agree that the impact on the significance of this designated heritage asset is neutral.

Main Issue

7. The main issue is the effect of roof lights B1 and B2 on the living conditions of the adjacent occupiers at 42 and 46 Sandy Lodge Road ('No 42' and 'No 46'), with particular regard to overlooking.

Reasons

8. A degree of overlooking is commonplace in residential areas. That said, the properties in Sandy Lodge Road are laid out on large plots amongst significant landscaping, thus giving the area a secluded ambience, where the occupants may reasonably expect to enjoy a significant degree of privacy.
9. The second floor bedroom, which is served by roof lights B1 and B2, also has a glazed south face which provides ample natural light, but which also provides the principal outlook from that room, which is into the host property's own rear garden. However, contrary to the appellant's assertion that the roof lights are at a high level internally, I observed that they are positioned fairly low relative to the floor level, such that the occupants could look out from them towards the plot's side boundaries.
10. Roof light B1 is much closer to the boundary with No 42 than roof light B2 is to the boundary with No 46. There are views from it across and down towards the fairly nearby rear garden of No 42 and, more obliquely, towards windows in its rear face. I cannot be certain that landscaping, which partially restricts those views, will always be retained. Thus, to prevent significant overlooking of No 42, it is reasonable that B1 should be obscurely glazed and fixed shut, as annotated on the drawings. This can be addressed by a condition.
11. Turning to roof light B2, according to the Council, it is around 15 metres from the boundary with No 46. Moreover, I observed on my visit that views from it towards No 46 are significantly restricted by a combination of the host's adjacent gable and by landscaping around the boundary.
12. Consequently, whilst roof light B2 can be seen from No 46, and the occupier has raised an objection regarding views from it towards his patio, kitchen, bedroom and changing rooms, given the significant distance involved and intervening features, it has not caused a significant degree of overlooking, nor, in my opinion, a significant perception of overlooking. Having regard to the context of the area, it has not impacted those occupiers' living conditions to a harmful degree. Although I cannot be certain that the landscaping will be retained, given my assessment I see no cogent planning reason why B2 should be fixed shut or obscurely glazed.

13. Amongst other things, and in general terms, Policies CP1 and CP12 of the Three Rivers Core Strategy 2011, and Policy DM1 of the Three Rivers Development Management Policies Local Development Document 2013 ('TRDMP'), set out that schemes should avoid inappropriate development and should protect residential amenities with regard to matters such as adequate levels of privacy; and that they should satisfy the criteria in TRDMP Appendix 2.
14. Appendix 2 states that, whilst applications will be assessed on their merits, in the interests of privacy and to prevent overlooking, first floor habitable room windows should not generally be located in a property's flank elevations, and that flank windows in other rooms should be non-opening below 1.7 metres and obscurely glazed.
15. In this case, I am assessing the impact of roof lights, which are at second floor level, and having regard to the particular site circumstances and context here, and subject to roof light B1 being suitably conditioned, I am satisfied that they do not conflict with those policies.
16. Turning to that matter of conditions, I have considered those suggested by the Council and other parties against the tests in the National Planning Policy Framework. Given that the roof lights are already in place, the Council's suggested conditions regarding the time limit for commencement, matching materials, and requiring the development to be carried out in accordance with the approved plans are not appropriate.
17. However, I have found that, in order to protect the living conditions at No 42, and in the interests of clarity, roof light B1 should be obscurely glazed and fixed shut, as specified on the drawings. As it is already in place, I have therefore imposed a condition to that effect broadly as suggested by the Council. This requirement, including the timeframe for implementation, is proportionate to the details of the case and, in the event that the action is not undertaken by the specified date, the Council could use its powers under section 172 or section 187A of the Town and Country Planning Act 1990.
18. For the above reasons, and subject to that condition, I conclude that the scheme has not impacted the living conditions of adjacent occupiers to a harmful degree. Consequently, having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR