



Appeal Decision

Site visit made on 21 February 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10TH March 2023

Appeal Ref: APP/P0240/D/22/3313093

16 Goodwood Close, Clophill, Bedfordshire MK45 4FE

- 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 Quing Tsang against the decision of Central Bedfordshire Council.
 - The application Ref CB/22/02705/FULL, dated 1 July 2022, was refused by notice dated 29 September 2022.
 - The development is the erection of a loft extension and soil vent pipe.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a loft extension and soil vent pipe at 16 Goodwood Close, Clophill, Bedfordshire MK45 4FE in accordance with the terms of the application, Ref CB/22/02705/FULL, dated 1 July 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: ELA/5 Rev B and ELA/20 Rev A.
 - 2) The windows in the extension hereby permitted shall be permanently fitted with obscured glazing and no part of those windows that is less than 1.55 metres above the floor of the room in which it is installed shall be capable of being opened.

Main Issue

2. It is considered that the main issue is the effect of the development on the living conditions of the occupiers of 15 Goodwood Close.

Reasons

3. An extension to the roof of the property has been erected pursuant to the Council issuing a Certificate of Lawful Development (Ref CB/21/04794/LDCP). However, as erected, the extension does not accord with the permitted development requirements for roof alterations because there are 2 side openings facing towards the garden of 15 Goodwood Close which, although obscurely glazed, have top-light openings below 1.7 metres above the floor level of the room. The Council's *Central Bedfordshire Design Guide* refers to a right of privacy for neighbouring occupiers and that if first floor windows are proposed in the side wall, they should be at a high level, non-opening and fitted with obscured glass. This guidance can be applied to roof level windows.
4. At ground floor level within the property's side elevation facing No. 15 there is a clear glazed entrance door which provides access to a raised pathway

adjacent to the shared boundary with steps down to the rear garden. At the rear of the property is a raised patio area with steps down to the garden. From the door, pathway and patio area there are clear views above the fence into the rear amenity space of No. 15. This existing overlooking is given significant weight in the determination of this appeal.

5. Within the property's side elevation at first floor level there are existing obscured glazed windows which can be opened. However, these windows serve bathrooms rather than a habitable room of the type which has been created within the roofspace. Accordingly, limited weight is given to these windows in the determination of this appeal.
6. To obtain an outlook from the windows within the roof extension there is a need to stand very close to these openings and for the top lights to be significantly open. Even then the outlook is primarily towards either the side elevation and roof of No. 15 or the roof of the detached garage on the opposite side of the garden. By reason of their height above the floor level and size of openings, to obtain a view of No. 15's rear amenity space requires a person to stand next to the window and physically look down towards the garden through the opening. This is not the typical means of looking out from a window.
7. In any event, when a downwards view can be achieved it is only a very narrow or oblique view of No. 15's garden. By reason of these narrow or oblique views there is not a material or unacceptable loss of privacy caused to the occupiers of No. 15. Further, these views are significantly more restricted than the outlook from the property's side door, pathway and rear patio.
8. The appellant has suggested that the openings could be made non-opening by the imposition of a suitable condition but, for the reasons given, it is unnecessary in this case. However, rather than the condition suggested by the Council just to secure the treatment of the windows, a condition is necessary to ensure that the glazing within all the windows remains obscured and non-opening below 1.55 metres above the floor level of the room. Without the obscured glazing there would be an unacceptable effect on the privacy of the occupiers of No 15 because of the cumulative impact of the overlooking.
9. For the reasons given, it is concluded that the development does not cause unacceptable harm to the privacy of the occupiers of 15 Goodwood Close and, as such, it does not conflict with Policy HQ1 of the Central Bedfordshire Local Plan which requires development not to have an unacceptable adverse impact upon nearby existing uses, including impacts on privacy.

Conditions

10. The Council has suggested several conditions in the event this appeal succeeds which have been assessed against the tests in the National Planning Policy Framework and the Planning Practice Guidance. For reasons of clarity, it is necessary for conditions to refer to the approved drawings and, as already explained, securing the windows being permanently obscurely glazed and non-opening below 1.55 metres. Accordingly, it is concluded that this appeal should be allowed.

D J Barnes

INSPECTOR