



Appeal Decision

Site visit made on 13 April 2023

by K Winnard LL.B Hons

an Inspector appointed by the Secretary of State

Decision date: 27 April 2023

Appeal Ref: APP/M1005/D/23/3316075
Hollybank Hob Hill Derby DE56 4AL

- 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 Rachel Wilks against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2022/0909, dated 14 October 2022, was refused by notice dated 19 December 2022.
 - The development proposed is the installation of a new first floor window to the south side elevation, and replacement glazing of west elevation first floor window to obscure glazing.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council amended the description of the application and I note that this description has been used by the appellant within the appeal documentation. I note that the Council considers that the replacement glazing of the west elevation first floor window with obscure glazing could be installed without planning permission under the Town and Country Planning (General Permitted Development) Order (as amended). I have accordingly assessed the appeal on the basis as determined by the Council, that is in relation to the installation of the first-floor window to the south side elevation.

Main Issue

3. The main issue in this appeal is the effect of the development on the living conditions of the occupiers of the neighbouring dwelling, Gean Rise with particular regard to privacy.

Reasons

4. The appeal property, Hollybank, is one of a number of individually designed detached properties sited on Hob Hill, a rural road which rises steeply in a north easterly direction. Its neighbouring property, Gean Rise, a substantial part two storey, part single storey dwelling is sited at a lower level. Due to the siting and respective orientations of both properties, the rear and side elevations of Hollybank are close to the boundary with Gean Rise.

5. The installation of the proposed large window in the currently blank first floor level gable of the south side elevation would directly overlook the part of the garden to the side of Gean Rise sited close to this boundary as well as providing more oblique views into the lounge, kitchen and ground floor bedroom of the property. The Council's Supplementary Planning Document for Residential Development (October 2007) (SPD) provides that developments which place habitable room windows close and looking directly onto boundary walls/fences are unlikely to be considered acceptable.
6. There is already a strong degree of overlooking from the first-floor bedroom windows in the rear elevation of Hollybank towards the rooms in the rear and side elevations of Gean Rise. However, the new window would offer a significantly different view to those already afforded from these windows which do not include direct views of the lounge or of the side garden area which is clearly used. Whilst some views of this part of the garden of Gean Rise are possible from the highway, given the extent of vegetation situated along the boundary, these views are fleeting and for only a short distance within the highway. Nor are there any existing windows at first floor level in the side elevation of Hollybank orientated towards this side garden of Gean Rise. Given these factors, I consider that this garden area is reasonably private. Accordingly, I consider that the proposal would not maintain the same degree of privacy currently afforded to the occupiers of Gean Rise.
7. For these reasons the development would cause significant harm to the living conditions of the occupiers of Gean Rise as a result of overlooking and loss of privacy. In this respect the proposal would conflict with Saved Policy H12 of the Amber Valley Borough Local Plan (2006) which requires development proposals to not unduly affect the privacy of adjacent properties including overlooking. Nor would it comply with the guidelines set out in the SPD, details of which I have given above. It would also fail to comply with the National Planning Policy Framework which seeks to protect the amenity of occupiers of adjacent properties.

Conclusion

8. For the reasons given above and having regard to all matters raised, I hereby dismiss the appeal.

K Winnard

INSPECTOR