

Appeal Decision

Site visit made on 12 July 2023

by N McGurk BSc (Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2023

Appeal Ref: APP/X2410/D/23/3322346

41 Iveshead Road, Shepshed, Leicestershire, LE12 9EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Nick Griffiths against the decision of Charnwood Borough Council.
 - The application Ref P/23/0105/2, dated 21 January 2023, was refused by notice dated 20 March 2023.
 - The application sought planning permission for erection of detached garage with office space in eaves without complying with a condition attached to planning permission Ref P/22/0972/2, dated 11 November 2022.
 - The condition in dispute is No 3 which states that: The north facing first floor windows on the garage hereby permitted shall be obscure-glazed to Pilkington Level 3 or equivalent and shall be non-opening below 1.7 metres above internal floor level. These windows shall be retained as such thereafter at all times. No changes shall be made to these windows nor shall any additional windows be inserted in this elevation thereafter.
 - The reason given for the condition is: To minimise the effect of the development on the privacy and amenities of nearby residents in accordance with Policy CS2 of the Charnwood Local Plan Core Strategy 2015 and the Council's Design Supplementary Planning Document 2020.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning permission was granted in November 2022 for the erection of a detached garage with office space in eaves. I observed during my site visit that this development appears largely complete.
 3. The condition in dispute, condition No 3, requires first floor north facing windows to be obscure glazed and to be non-opening below 1.7 metres. During my site visit, I observed that the first floor north facing windows are in breach of this condition.
 4. The application the subject of this appeal seeks the removal of condition No 3. This condition was imposed to minimise the effect of the development on the privacy and amenities of neighbouring occupiers.
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Main Issue

5. The main issue in this case is the effect of the removal of the condition on the living conditions of neighbouring occupiers, with regards to privacy.

Reasons

6. Number 41 Iveshead Road is a two storey detached dwelling set close to the edge of pavement along Iveshead Road in a residential area characterised by the presence of a range of dwellings, including detached, terraced and semi-detached dwellings and dwellings of one and two storeys in height. Many dwellings along Iveshead Road tend to be set relatively close to the road, some behind gardens/parking areas and dwellings tend to have longer gardens to the rear.
7. The appeal property has a long, L-shaped garden to the rear. Towards the end, this garden runs alongside the short rear gardens of two storey terraced dwellings along Abbey Close and close to the rear garden of a two storey detached dwelling along that same street.
8. The detached garage with office space referred to above is located towards the end where the rear garden widens out into its L-shape. As noted above, the development appears largely complete. It comprises a relatively large structure and the office element is set at first floor level and has north facing dormers. The windows the subject of condition 3 are set within these dormers and face directly towards the rear of the aforementioned dwellings along Abbey Close.
9. During my site visit I observed that, whilst there is some planting along the appeal property's boundary with the rear gardens of the dwellings along Abbey Close, the windows the subject of condition 3 still provide potential for the overlooking of gardens, especially when trees are not in full leaf, and for direct views towards the rear windows of these dwellings.
10. Taking this together with the relatively close distance between the dormers and the properties along Abbey Close into account, I find that these north facing first floor windows have a detrimental impact on the privacy of the occupiers of dwellings along Abbey Close.
11. The harm arising from this is exacerbated by the overall scale and height of the garage with office space, such that its dormer windows appear prominently, as dominant features located in a commanding position, when observed from the direction of these dwellings.
12. Taking all of the above into account, I find that the removal of condition 3 would harm the living conditions of neighbouring occupiers, with regards to privacy, contrary to the Framework, to Core Strategy¹ Policy CS2; to Local Plan² Policy DS5; and to the Council's Design Supplementary Planning Document (2020), which together amongst other things, seek to protect residential amenity.

¹ Reference: Charnwood Local Plan 2011 to 2028 Core Strategy (2015).

² Reference: Charnwood Local Plan 1991-2006 (2004).

Conclusion

13. For the reasons given above, the appeal does not succeed.

N McGurk

INSPECTOR