



Appeal Decision

Site visit made on 20 November 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2023

Appeal Ref: APP/R3515/W/23/3316614

79A Henley Road, Ipswich, Suffolk IP1 3SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Lee against the decision of Ipswich Borough Council.
 - The application Ref 22/00997/FUL, dated 29 November 2022, was approved on 24 January 2023 and planning permission was granted subject to conditions.
 - The development permitted is described as the "insertion of first-floor window in north facing elevation".
 - The condition in dispute is No 2 which states that: *"Before the room shown as bedroom 5 on drawing no JDA-022-0362-PL-002A is first occupied, the window shall be obscurely glazed or obscurely glazed film applied to a minimum of level 3 obscurity up to 1.7 metres from finished floor level, and with a 100mm maximum opening restrictor, and thereafter be retained in this form and only full openable in the event of an emergency."*
 - The reason given for the condition is: *"In the interests of the residential amenity of occupiers of 81 Henley Road which is overlooked by the window."*
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Decision

1. The appeal is allowed and the planning permission Ref 22/00997/FUL for the insertion of a first-floor window in the north facing elevation at 79A Henley Road, Ipswich, Suffolk IP1 3SB granted on 24 January 2023 by Ipswich Borough Council is varied by deleting condition 2.

Preliminary Matter

2. I must determine the appeal based on the submitted plans and information considered by the Council. The window has already been installed and is not obscurely glazed.

Background and Main Issue

3. Planning permission was granted for the insertion of a first-floor window in the north facing elevation subject to two conditions. The appellant is seeking the removal of condition 2 set out in the banner heading above. The condition was imposed 'in the interests of the residential amenity of occupiers of 81 Henley Road which is overlooked by the window'. The main issue is the effect that removing condition 2 would have on the living conditions of the occupants of 81 Henley Road (No 81) with particular regard to privacy.

Reasons

4. The appeal site and the adjacent dwelling at No 81 are detached houses in large plots. The appeal dwelling lies rearward of No 81, so parts of its side wall extend beyond the rear wall of the neighbouring property. The adjacent house has rear bay windows to the ground floor lounge with a balcony and bedroom above and a rear patio adjacent to the house.

5. The evidence indicates the longstanding existence of an upper floor double bedroom window in the north elevation of the appeal dwelling. Alterations in 2020 resulted in one half of this window being obscure glazed to serve a new bathroom and the other half remaining clear glazed and located in the corner of a smaller bedroom.
6. The proposed first floor double window serves an existing room, currently in use as an office. It allows views into the side windows of the neighbouring lounge, much of the first-floor balcony, and a significant part of the rear patio at No 81. An upper floor bedroom window in the adjacent house is also visible.
7. The proposed window is wider than the previous single bedroom window and more centrally positioned along the room's external wall. However, due to its location forward of the previous single and double room windows, part of it directly faces the side wall of the neighbouring house. As such, the proposed development results in less direct overlooking of the rear rooms, balcony, and patio of No 81 than before the building works were completed. The Council accepts that this represents an improvement in this respect.
8. There is limited evidence that the hinged window openings differ to those previously installed and, as set out above, the position of the proposed window has no greater impact on the privacy of the occupiers of No 81 than before.
9. Policy DM16 of the Council's Core Strategy and Policies Development Plan Document Review 2022 (DPD) requires alterations to dwellings to not adversely affect residential amenity in terms of privacy/ overlooking. Policy DM18 seeks to protect the quality of life of neighbours by only granting permission for development that does not result in an unacceptable loss of amenity, including in terms of visual privacy and overlooking. Further, the Council's Space & Design Guidelines Supplementary Planning Document 2015 requires the impact of alterations on the overlooking of neighbours to be considered.
10. There is some overlooking of No 81 but given the history of an upper floor bedroom window in this elevation and the position of the proposal, the window without obscure glazing and a maximum opening restrictor does not cause an unacceptably adverse effect on the neighbouring occupiers. As such, I find no conflict with the DPD policies.
11. Consequently, I conclude that condition 2 is not reasonable or necessary in the interests of the living conditions of the occupants of No 81 with particular regard to privacy.

Other Matters

12. The site is not within a Conservation Area (CA) though the Park CA bounds the site to the south and west. The Council has not stated that the proposal is within its setting and, from my observations on site, I am satisfied that the setting of the CA is not harmed.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed and I vary the planning permission by deleting the disputed condition.

A Wright INSPECTOR