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## Appeal Decision

Site visit made on 26 February 2024

**by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> March 2024**

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**Appeal Ref: APP/D1590/D/23/3331091**

**35 Belfairs Drive, Leigh-on-Sea SS9 3AA**

- 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 Faysal Mahmud against the decision of Southend-on-Sea City Council.
  - The application Ref 23/01223/AMDT, dated 19 July 2023, was refused by notice dated 14 September 2023.
  - The development proposed is application to vary Condition 4 – to allow the main bedroom window in rear dormer to have a clear glass with openable windows (minor material amendment of planning permission 21/00240/FULH dated 30/02/2021).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The development described has been carried out and as such the appeal is retrospective. I have determined the appeal on that basis.

### Reasons

3. The main issue is the effect on the living conditions of the neighbouring occupiers.
4. Belfairs Drive is a residential street which has a range of different house types including two storey houses and bungalows, many of which have been subject to alterations and extensions. The street runs in parallel with Eastwood Road and some of the rear gardens of the properties along it back on to one another.
5. The appeal property (No35) is a semi-detached bungalow with a small rear garden. It has been subject to a hip to gable roof extension with dormers to the front and rear elevations under LPA reference 21/00240/FULH.
6. Condition 4 of that permission requires that the first floor windows in the gable end and rear dormer are obscured glazed and retained as such in perpetuity. The reason given for this was to protect the living conditions of neighbouring occupiers at No's 30 and 32 Eastwood Road, which back on to the appeal site.
7. What has been constructed differs from the requirement of Condition 4, in that the bedroom window within the rear dormer has not been obscure glazed and has clear glass, it is also openable. I also note that a Breach of Condition notice has been issued by the council (LPA reference 22/00246/BRCN\_B).

8. Policy DM1 (Design Quality) of the Southend-on-Sea Development Management Document (2015) (DMD) specifically sets out that (amongst other things) development should protect the amenity of neighbouring occupiers (para 2.6) and apply to the extensions of new development as well as new development. The Southend-on-Sea Design and Townscape Guide (2009) (SPD) provides additional guidance on how, through appropriate design, such impacts can be avoided or minimised.
9. From the approved plan 2410-02 (Existing Plans, Elevations and Roof Plan, Site Location and Block Plan) and the site visit, the dormer window to the front of the appeal property is clear glazed, providing an acceptable outlook and natural light into the room. I therefore do not agree with the appellants (as asserted in para 4.14 of their appeal statement) that a second clear glazed window serving the bedroom would be required to protect the living conditions of the occupiers of the appeal property.
10. No's 30 and 32 Eastwood Road back on to the rear garden of the appeal property and I could see at the site visit that they were close enough that overlooking could easily occur. I do note that the appellant at 4.4 of their statement argues that No32 Eastwood Road, being at an oblique angle would not suffer from direct overlooking and I agree that this would be less of an issue. However, this does not extend to the occupiers of No.30.
11. Whilst I acknowledge there is already a degree of overlooking into gardens from existing neighbouring properties, the addition of clear glazed windows within the box dormer at the appeal property would significantly add to this, resulting in what I consider to be harm to the occupiers of No's 30 Eastwood Road.
12. The appellant argues that No30 Eastwood Road has clear glazed windows in a bathroom overlooking the appeal property when it should be obscure glazed but provide no evidence to show whether this is a requirement (such as a planning condition), only the description in an estate agents flier for No30.
13. The appellant also cites a similar case at 71 Chalkwell Esplanade, Westcliff-on-Sea (LPA reference 20/02066/AMDT) (no PINS Reference has been supplied for the subsequent appeal) and argues that this sets a precedent. I am unable to take this decision into account as no information has been provided to me about the case other than the limited information at paragraph 4.5 of the appellants statement. In any event, I am required to determine this appeal on its own merits.
14. I therefore consider that a clear glazed, openable rear bedroom window in this case would be contrary to policy DM1 of the DMD and the relevant parts of the SPD.

### **Other Matters**

15. The appellant raises a final point at paragraph 5.1 of their appeal statement that the rear bedroom window should be opening in order to provide a means of escape during a fire. This has not been supported by any evidence. In any event, such matters are dealt with under separate legislation and their specific point in this regard does not alter my conclusions.

## **Conclusions**

16. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

*Sian Griffiths*

INSPECTOR