



Appeal Decision

Site visit made on 4 March 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/G2245/D/23/3328865

Twin Oaks, 3 Kilnwood, Halstead, Kent TN14 7EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Yussuf against the decision of Sevenoaks District Council.
 - The application Ref is 23/01852/CONVAR.
 - The application sought planning permission for a two storey side and garage extension with steps without complying with a condition attached to planning permission Ref 23/00901/HOUSE, dated 23 June 2023.
 - The condition in dispute is No 3 which states that: Notwithstanding the approved drawings, prior to the first occupation of the development hereby approved, the first floor window in the east facing, rear elevation of the development hereby permitted shall be glazed with obscure glass of no less than obscurity level 3 and permanently fixed shut, unless the parts of the window/s, which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall thereafter be permanently retained as such.
 - The reason given for the condition is: To safeguard the privacy of residents as supported by Policy EN2 of the Sevenoaks Allocations and Development Management Plan.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The extension has been completed, including the first floor rear facing window. However, the window is not obscure glazed and is openable. I shall make my decision against the plans submitted with the application and as listed on the original decision notice.

Background and Main Issue

3. The appeal site comprises a detached two-storey dwelling. Planning permission has been granted under reference 23/00901/HOUSE for a two-storey side and garage extension with steps, subject to conditions. This included, at condition 3, that the first floor window in the east facing rear elevation shall be obscure glazed and non-opening below 1.7 metres. An application to removed condition 3 was refused under reference 23/01852/CONVAR.
4. The main issue is whether the condition is reasonable and necessary having regard to the living conditions of the occupiers of neighbouring properties, with particular regard to privacy.

Reasons

5. The development extends towards the side boundary of the site. The land rises from the neighbouring properties at Meadway towards the site resulting in the adjacent gardens sitting at a lower level than the host dwelling. The neighbouring gardens are small in size and provide only limited private space for occupants of these properties.
6. The window in the first floor rear elevation of the extension provides unobstructed views towards the private amenity space immediately adjacent to the neighbouring dwellings. The overlooking is accentuated by the difference in land levels and the limited size of the private spaces serving the neighbouring properties. Consequently, the window results in considerable overlooking and a significant loss of privacy for the occupants of these dwellings.
7. The appellant suggests that the retention of the condition would set a precedent that would require all rear facing windows to be obscure glazed and fixed shut. However, the condition is reasonable and necessary to safeguard the privacy of neighbouring residents given the particular circumstances of this development, including the orientation and proximity of the window to the neighbouring properties. Moreover, each development should be considered on its individual merits and with appropriate regard to the development plan and any material considerations, which is what I have done in this case.
8. The National Planning Policy Framework (the Framework) states that any conditions should only be imposed where they meet the six tests, as set out in Paragraph 57 of the Framework. As such, due to the specific circumstances at the site and the positioning of the window, I conclude that the condition requiring the window to be obscure glazed and non-opening below 1.7 metres is reasonable and necessary and meets the six tests set out in the Framework.

Conclusion

9. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR