

Appeal Decision

Site visit made on 5 June 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2024

Appeal Ref: APP/R1038/W/24/3336532

14 Trent Grove, Dronfield, Derbyshire S18 2FP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr James Kemp of JMK Consult against the decision of North East Derbyshire District Council.
 - The application Ref 23/00743/FLH was approved on 21 December 2023 and planning permission was granted subject to conditions.
 - The development permitted is proposed single storey side extension and raising of existing roof incorporating one velux window to accommodate bedrooms.
 - The condition in dispute is No 3 which states that:
The window proposed to the first floor rear elevation (the window proposed in the east elevation to bedroom 1) shall be installed as per the design shown on the approved drawing, be of a side-opening design and obscurely glazed. The obscure glazing shall be installed in order to provide a level of obscurity at least equivalent to levels 4 or 5 on the Pilkington Glass scale. Once installed the windows and glazing shall then be maintained as such thereafter (i.e. as two paned, side-opening and obscurely glazed).
 - The reason given for the condition is:
In the interests of the privacy and amenity of neighbours.
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Decision

1. The appeal is allowed and the planning permission Ref 23/00743/FLH for proposed single storey side extension and raising of existing roof incorporating one velux window to accommodate bedrooms at 14 Trent Grove, Dronfield, Derbyshire S18 2FP granted on 21 December 2023 by North East Derbyshire District Council, is varied by deleting condition 3.

Procedural Matter

2. At the time of my site visit the development proposed appeared to have been completed and it corresponds to the details shown on the approved plans. I have determined the appeal on that basis.

Background and Main Issue

3. The development permitted is for an extension to the property and raising its roof to create first floor accommodation. In order to protect the neighbours' privacy a condition was imposed requiring the first floor rear bedroom window to be fitted with obscure glass and be of a side opening design. The window has been fitted with clear glass, contrary to the requirements of the condition. The appeal is against this condition.
4. Therefore, the main issue is the effect that removing the condition would have on the living conditions of neighbouring occupiers, with regard to privacy.

Reasons

5. The appeal site relates to 14 Trent Grove, a detached bungalow situated within an established residential area characterised by bungalows set on relatively spacious plots. The site is bordered by 206 Holmley Lane to the northern side, 12 Trent Grove to the south, and 27 Derwent Road to the rear (east).
6. According to the Council, the window in question is located about 20.2 metres from the middle of the nearest most affected window in the side elevation of No 27. That is slightly below the 21 metre separation distance set out in the Council's Successful Places Supplementary Planning Document 2013 (SPD). However, during my visit I saw that the window does not directly face the neighbour's windows but is slightly offset relative to them. The Planning Committee Report states that the angle between the two dwellings is around 70 degrees. In such circumstances the SPD recommends a separation distance of at least 20 metres, which would be achieved in this case and is a reasonable distance between the two dwellings to avoid loss of privacy.
7. The distance between the window and the rear boundary with the neighbour's garden is 8.8 metres which is below the 10.5 metres separation recommended in the SPD. However, the SPD acknowledges that the minimum separation distances should be applied reasonably and may need to be relaxed or increased depending on the specific circumstances.
8. There is a mature beech hedge of considerable height on the rear boundary. At the time of my visit the view from the bedroom window to the neighbour's windows was largely obscured by the hedge. It also screens views of the neighbour's garden. Taking this into account, there is no intrusive overlooking of the neighbour's windows or garden. Even with seasonal leaf fall or a reduction in its height, the hedge would still be likely to provide a reasonable level of screening. In any case the distance between the window and the neighbour's windows is acceptable. Moreover, no condition requiring the window to be obscure glazed was attached to the previous permission for a similar scheme granted in 2023. This supports my view that the condition is not necessary to make the development acceptable.
9. I conclude that the removal of the disputed condition would not have a harmful effect on the living conditions of neighbouring occupiers, with particular regard to privacy. Without the condition, the development complies with Policies LC5 and SDC12 of the North East Derbyshire Local Plan (2021) and Policy D3 of the Dronfield Neighbourhood Plan (2019) which seek to ensure that development protects the amenity of existing occupiers including in relation to privacy.

Other Matters

10. In light of the main issue identified above, the other concerns raised about the development are not for consideration in this appeal. Even if the appellant did agree to the condition being imposed, this does not alter my findings above.

Conclusion

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

M Ollerenshaw - INSPECTOR