



Appeal Decision

Site visit made on 14 May 2024

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 11 July 2024

Appeal Ref: APP/D1265/D/24/3341722

3 Forest Edge Close, St Leonards and St Ives, Dorset, BH24 2DZ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Charlotte Menzies against the decision of Dorset Council.
 - The application Ref P/VOC/2023/06580, dated 9 November 2023, was refused by notice dated 24 January 2024.
 - The application sought planning permission for extension and alterations for a bungalow to a house. Conversion and alterations to garage without complying with a condition attached to planning permission Ref P/HOU/2023/04787, dated 15 August 2023.
 - The condition in dispute is No 4 which states that: Before the extension is brought into use, the following windows shall be fitted with obscure glazing to a minimum industry standard obscurity 3:
 - *the first floor windows in the north-west (side) elevation serving the master bedroom, bathroom and stairwell;*
 - *the first floor window in the south-east (side) elevation serving Bedroom 4 up to 1.7 m above finished floor level of the room served**Thereafter the obscure glazing shall be retained as such.*
 - The reason given for the condition is: To safeguard the amenity and privacy of the occupiers of adjoining residential properties.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appellant states that she does not object to the requirement for obscure glazing to the first floor windows to the north-west elevation serving the master bedroom, bathroom and stairwell.
3. I therefore consider that the main issue in this appeal to be the effect on the living conditions on the occupiers of 4 Forest Edge Close (No 4) from the proposed window to bedroom 4, in terms of potential overlooking and loss of privacy.

Reasons

4. The appeal property is a bungalow, located in a development of similar single storey properties. Planning permission was granted to extend and alter the bungalow to form a two-storey house. The development has not commenced.

5. Bedroom 4, situated on the proposed first floor has been designed to have just one window located in the south-east elevation. The approved window would be about 0.75 metres wide and 2.5 metres high.
6. From this window it would be possible to overlook the front entrance and the adjacent side garden area of the neighbouring bungalow, No 4, which is located centrally on its plot. From the evidence before me the proposed window would be about 5 metres from the common boundary to No 4, and some 11 metres or so from its flank wall.
7. There are two windows in the side elevation of No 4, which face the appeal property, and from the evidence I note that these serve habitable rooms. Given the narrow width of the window to bedroom 4 and the relationship of No 3 to No 4 I am not persuaded that the proposed window to bedroom 4 would result in unacceptable harm to living conditions, in terms of overlooking and loss of privacy to the users of those habitable rooms.
8. Due to its relatively compact plot, and site layout No 4 has limited private amenity space. Accordingly, this side garden and access area is more important to the amenity of the occupiers than might otherwise be the case.
9. Additional mutual overlooking as a result of development may not, in itself result harm to living conditions. However, there is currently very limited overlooking of the side garden, driveway, or the front door of No 4. Accordingly, I consider that both actual and perceived overlooking from a new first floor window would result in a significant loss of privacy.
10. Consequently, unless the window were to be obscure glazed below 1.7 metres, as conditioned, the proposed window to bedroom 4 would result in harm to the living conditions of the occupiers of No 4 in terms of loss of privacy.
11. I appreciate that the window is currently shown as serving a bedroom and as such the room may not be occupied for extended periods. However, it could be used for any number of other uses, for example a study, hobby room, playroom etc where the space may well be occupied like a living room or kitchen for longer periods of time.
12. The Council has previously reconsidered its position concerning the impact of the proposed dressing room window in the north-east elevation of the appeal property on the occupiers of Nos 9 and 9a Webbs Close, in terms of overlooking. I do not accept, given the foregoing considerations as well as the distances involved, the appellant's suggestion that the same should apply to the degree of harm to be applied to the impact of the window of bedroom 4 on the occupiers of No 4, which I have considered on its individual planning merits.
13. To allow the development without compliance with condition 4 in full would contravene the objectives of Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 Core Strategy (Adopted April 2014) and the National Planning Policy Framework which seek to protect the living conditions of residential occupiers. The condition which requires the window to bedroom 4 to be obscure glazed is necessary and reasonable and in all other respects meets the six tests set out in the Framework.

Conclusion

14. For the reasons given above and having had regard to all other matters raised, including the lack of objection to the original development from the occupiers of No 4, I conclude that the appeal should be dismissed.

Philip Willmer

INSPECTOR