



Appeal Decision

Site visit made on 13 August 2024

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2024

Appeal Ref: APP/F0935/W/24/3345573

6 Beech Lane, Cockermouth, Cumbria CA13 9HQ

- 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 Ms C Lyons against the decision of Cumberland Council.
 - The application Ref HOU/2024/0046 was approved on 26 April 2024 and planning permission was granted subject to conditions.
 - The development permitted is installation of window to the ground-floor North-West side elevation, alteration to the fenestration of the ground floor rear elevation of the dining room, alteration to the fenestration of the first floor front and South-East elevation and the replacing of pebble dash and boarding with white K rend.
 - The condition in dispute is No 3 which states that: The approved bedroom window in the first-floor South-East elevation shall be obscure glazed which shall be fully implemented prior to their use and shall be retained at all times thereafter unless agreed in writing with the Local Planning Authority.
 - The reason given for the condition is: To safeguard the residential amenity of the occupiers of neighbouring dwellinghouses, in compliance with the National Planning Policy Framework and Policies S32, DM14 and DM15 of the Allerdale Local Plan (Part 1), Adopted July 2014.
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Decision

1. The appeal is allowed and the planning permission Ref HOU/2024/0046 for installation of window to the ground-floor North-West side elevation, alteration to the fenestration of the ground floor rear elevation of the dining room, alteration to the fenestration of the first floor front and South-East elevation and the replacing of pebble dash and boarding with white K rend at 6 Beech Lane, Cockermouth, Cumbria, CA13 9HQ granted on 26 April 2024 by Cumberland Council, is varied by deleting condition no. 3.

Preliminary Matters

2. In order that my decision relates clearly to the development for which planning permission was granted, I have used the description from the Council's decision notice in the banner heading and my decision.

Background and Main Issue

3. Planning permission was granted for the development described in the banner heading above in April 2024. Part of the fenestration alterations proposed include the dropping of the cill height of the window at first floor in the South-East elevation, which is a secondary bedroom window. It faces towards the neighbouring single storey house at 4 Beech Lane. The Council imposed condition no. 3 due to concerns about a potential increase in overlooking for residents of this house.

4. The main issue is therefore whether the condition is reasonable and necessary to protect the living conditions of residents of 4 Beech Lane with regard to privacy.

Reasons

5. The appellant's evidence illustrates that it is already possible to view parts of the front garden of no. 4 from the window. The proposal to drop the cill height would enable slightly more of the front garden and side elevation of no. 4 to be seen. There are no windows in this side elevation. Any additional views of the front garden would be of the driveway, which is already clearly visible from the ground floor window in the side elevation of no. 6 and from Beech Lane. Consequently, dropping the cill of the first-floor window would not markedly increase the degree of overlooking towards the front of no. 4.
6. Based on the appellant's evidence, the rear of no. 4 cannot be readily seen from the window. Dropping the cill would increase the extent of view. However, any view towards the rear of no. 4, including its conservatory and garden, would be over its roof and at an angle. These factors would limit the extent of actual and perceived overlooking possible. Much of the garden of no. 4 lies to its side, with the house in between it and the window of no. 6. As such, views of this area of garden from the window, even with a lowered cill height, would be very limited due to the screening effect of the built form of no. 4.
7. Schedule 2, Part 1, Class A of the GPDO¹ grants permitted development for the enlargement, improvement or other alteration of a dwellinghouse subject to the conditions in paragraph A.3. As highlighted by the Council, this includes that any upper-floor window located in a wall forming a side elevation must be obscure-glazed, and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.
8. However, the appeal scheme has been the subject of a planning application, which enables an assessment of the particular circumstances of the case. For the reasons given, my view is that the proposal to drop the cill of the window in the South-East elevation at first floor would not result in a harmful level of overlooking for residents of no. 4. Consequently, there would be no conflict with the residential amenity requirements of Policies S32, DM14 and DM15 of the 2014 adopted Allerdale Local Plan (Part 1) if this condition is removed.

Conclusion

9. For the reasons outlined above, I conclude that the condition that requires the window in the first-floor South-East elevation to be obscure glazed is not reasonable and necessary to protect the living conditions of residents of 4 Beech Lane with regard to privacy. Consequently, I conclude that the appeal should be allowed, and that the planning permission is varied by deleting condition no. 3.

F Wilkinson

INSPECTOR

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)