



Appeal Decision

Site visit made on 16 July 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2024

Appeal Ref: APP/Q3115/D/24/3338605

6 Aylesbury Road, Thame, OX9 3AW

- 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 Jonathan Halson against the decision of South Oxfordshire District Council.
- The application Ref is P23/S3306/S73.
- The application sought planning permission for loft conversion, rear extension, porch (amended by plans changing the bedroom 2 window of the loft conversion to obscure glazing with the existing property remaining in its brick form) without complying with a condition attached to planning permission Ref P21/S0699/HH, dated 14 May 2021.
- The condition in dispute is No 4 which state that: The bathroom and bedroom 2 windows in the north facing elevation of the dormer feature hereby permitted shall be glazed in obscure glass with a minimum of level 3 obscurity, and shall be fixed shut with the exception of a top hung openable fanlight (or other means of opening to be first agreed in writing by the Local Planning Authority) prior to the first occupation of the accommodation and it shall be retained as such thereafter.
- The reason given for the condition is: To ensure that the development is not unneighbourly in accordance with Policy DES6 of the South Oxfordshire Local Plan 2035.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal.

Background and Main Issue

3. Planning permission, subject to conditions, was granted for several alterations to the appeal property. These alterations required as part of condition No 4 that windows created in the approved roof dormer are to be obscure glazed and fixed shut. The appellant is now seeking to remove condition No 4.
4. The main issue is whether the condition is reasonable or necessary in the interests of the living conditions of the occupiers of 8 Aylesbury Road (No 8), with particular reference to privacy.

Reasons

5. The appeal property is a detached bungalow situated on a short, staggered row of bungalows in close proximity. Situated within the roof slope of the appeal property is a large dormer with three windows facing No 8. As a result of the staggered building lines No 8 is set forward of the appeal property. On my site visit I observed No 8 has a small patio area wedged between a side and rear wall leading onto a grassed garden. At the time of my visit much of this patio area was under the cover of a canopy.
6. The evidence before me indicates that one of the windows on the dormer serves a bathroom, with the remaining two windows serving a bedroom. Whilst the canopy within No 8 restricts views into the patio area, it does not appear to be a permanent fixture, as indicated by the appellant. As a result, when the canopy is not in position, a window on the northwest elevation would overlook the patio area at a short distance. This direct view across the patio area at such a short distance would result in an unacceptable degree of overlooking and harm the privacy of the occupants of No 8.
7. Moreover, while the window serving this first-floor room is likely to be less used, the sense of being overlooked would be significantly enhanced by the presence of the non-obscured window at this height and short separation distance.
8. To allow the development without compliance with condition 4 would conflict with the aims of Policies DES6 of the South Oxfordshire Local Plan and ESDQ16 of the Thame Neighbourhood Plan. Together, amongst other things, these seek to avoid a loss of privacy by working with any surrounding development constraints. The removal of condition 4 would also conflict with the aims of the Framework, which seeks a high standard of amenity for existing users. The condition which requires the windows in the dormer to be obscure glazed is necessary and reasonable and in all other respects meets the six tests set out in the Framework.

Other Matters

9. The appellant has stated that the removal of condition 4 would enable much-needed ventilation during the warmer months of the year and also provide a safer route for escape if there were a fire. However, no details have been provided to demonstrate there are no less harmful alternatives to achieve better ventilation or alternative means of escape in the event of fire are not available.

Conclusion

10. For the reasons given above and having had regard to all other matters raised, including the lack of objection from the occupiers of No 8, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR