



Appeal Decision

Site visit made on 29 October 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/M1710/W/24/3346055

Oak Cottage, South Street, Ropley, Alresford, Hampshire SO24 0DY

- 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 Kirsty Black and John Pritchard against the decision of East Hampshire District Council.
- The application Ref 23369/003 was approved on 12 December 2023 and planning permission was granted subject to conditions.
- The development permitted is "Two storey side extension and single storey rear extension, upgrading of existing garden room. (Amended description)".
- The condition in dispute is No 4 which states that:
Notwithstanding any indication shown on the approved plans, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) prior to the first occupation of the development hereby approved the first floor window in the principle south east elevation of the development hereby permitted shall be permanently;
(i) glazed with obscure glass with a glass panel which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent of glass supplied by an alternative manufacturer), and
(ii) non-opening below 1.7 metres from the finished floor level of the room in which the window is installed.
- The reason given for the condition is:
To protect the privacy and outlook of the occupants of the nearby residential properties.

Decision

1. The appeal is allowed and the planning permission Ref 23369/003 for a two storey side extension and single storey rear extension, and upgrading of existing garden room at Oak Cottage, South Street, Ropley, Alresford, Hampshire SO24 0DY granted on 12 December 2023 by East Hampshire District Council, is varied by deleting condition No 4, and is otherwise subject to the conditions listed below:
 - 1) The development hereby permitted shall be constructed in accordance with the materials specified within the approved details, unless details of other suitable materials are otherwise agreed in writing by the Local Planning Authority.
 - 2) Within two months of the date of substantial completion, a minimum of one integrated bat box or swift nest box shall be installed within the site. The bird units shall be installed as per the manufacturer's instructions and shall be retained and maintained thereafter.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans and particulars:

Application form
Location & block plan
Existing floor plans
Existing elevations
Proposed floor plans
Proposed elevations

Background and Main Issue

2. Planning permission for the development permitted was granted in December 2023 (the approved scheme), as set out in the banner heading above. The current proposal is to remove the requirement of condition 4 for the “first floor window in the principle south east elevation” of the approved development to be permanently:
 - (i) glazed with obscure glass with a glass panel which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent of glass supplied by an alternative manufacturer), and
 - (ii) non-opening below 1.7 metres from the finished floor level of the room in which the window is installed.
3. Although this condition does not explicitly specify which first floor south east elevation window it applies to, the officer report refers to an ensuite bathroom that was considered appropriate to secure obscure-glazing and opening restriction below 1.7m through a condition, to safeguard neighbouring privacy. Therefore, my assessment of this appeal will relate to that window.
4. The appellant has stated that they may wish to use the bathroom subject of this appeal as a dressing room or office space. The LPA has indicated that this is acceptable in principle, and any application to amend the approved drawings and / or planning conditions would be determined on its merits. Such amendments however cannot be considered under this appeal, as it relates solely to the plans and conditions of the approved scheme.
5. During my site visit, I noted that the approved scheme was under construction, although the first-floor window glazing subject of this appeal had not been installed. This room was therefore not habitable at the time of my visit, and the overall approved scheme was not substantially complete. As the trigger point for the condition in dispute is the occupation of the approved scheme, it appears that this condition has not been breached despite works having already commenced. I have determined the appeal on this basis.
6. Therefore, the main issue is the effect that removing condition 4 would have on the living conditions of nearby occupiers, with particular regard to privacy.

Reasons

7. The appeal site (Oak Cottage) comprises a two-storey detached dwelling within open and spacious grounds, with access via a long private driveway off a cul-de-sac laneway towards the end of South Street. There are a number of mature trees and shrubs within and surrounding the site, which is also surrounded by other dwellings of varying size and layout.
8. The long front garden grounds of Oak Cottage decline significantly towards South Street. This allows for intervisibility between the host dwelling and Rosa

Cottage sited to the southwest. Oak Cottage and the approved scheme benefits from an existing first floor clear glazed bathroom window on its southeast elevation. This clear glazing was present at the time of my visit, and the submitted plans indicate that it can be retained as such to serve a bathroom irrespective of the outcome of this appeal. This window is closer to Rosa Cottage and its garden than the new window subject to the appeal. Views to and from Rosa Cottage to the proposed clear glazed window would be of a significant distance and at an oblique angle. The window proposed is also not particularly wide, which would restrict expansive views beyond its point of orientation. The resultant impact on the respective privacy between these neighbours would be no greater than the existing situation.

9. The proposed clear glazed bathroom window would be closer to the dwelling and garden of Spottswode House. The angle of views available would however be very oblique. This juxtaposition between these dwellings and garden areas would be sufficient to avoid adverse loss of privacy, even though the existing tree and shrub screening is deciduous and somewhat sporadic in density, and would be even more so throughout the winter months. Views would remain oblique and of sufficient distance to avoid harm to future occupiers
10. The dwelling of Fairways is sited at further distance away from the proposed window, on the opposite side of South Street and in close proximity to the laneway. The Council's concerns stem from the decrease in land levels from north to south towards this neighbour and the highway. At the time of my visit, existing views were largely restricted by mature trees within the front garden and along the driveway of Oak Cottage. Although these trees are deciduous, the distances from this neighbour and along South Street up to the proposed window are nonetheless considerable, despite the change in land levels and even when the trees would be not in leaf. The proposed clear glazed window would therefore not lead to any harm in terms of privacy.
11. The use of a window in an ensuite bathroom would be more sensitive than use as a habitable room, and the plans indicate a bathtub adjacent to the window. I also accept that the photos submitted by the appellant appear to have been taken during spring or summer, when trees were in full leaf. The LPA has also highlighted the possibility that the shrubbery within Oak Cottage and surrounding plots could be entirely removed due to the lack of statutory protection such as a Tree Preservation Order. Even if this were to happen, I am satisfied that the separation distances and oblique angles between Oak Cottage and all surrounding neighbours are sufficient to avoid adverse impacts on the privacy of all occupiers. It is therefore also not necessary to restrict any opening height of the window in question.
12. The Council suggests that it would never be considered appropriate for any bathroom window to be clear glazed. There is no planning policy requirement before me that sets out such a specific blanket approach for all dwellings. I have assessed the proposal on its own merits and following a site visit. Although no neighbouring objections have been received, I have borne in mind the importance of protecting the living conditions and well-being of future occupiers of Oak Cottage and the surrounding dwellings.
13. I have found that the removal of condition 4 would not have an adverse impact on living conditions of nearby occupiers, with particular regard to privacy. Accordingly, there is no conflict with Policy CP27 of the East Hampshire District

Local Plan: Joint Core Strategy (2014) and Policy RNP11 of the Ropley Neighbourhood Plan (2019). Collectively, these policies seek, amongst other things, development to avoid an unacceptable or significant effect on the amenity of neighbouring occupiers through loss of privacy. I also find no conflict with Paragraph 135 f) of the National Planning Policy Framework, which seeks to create places that promote health and well-being, with a high standard of amenity for existing and future users.

Conditions

14. I have considered those conditions imposed on the approved scheme in accordance with the Planning Practice Guidance (PPG). As the approved scheme has now commenced, the condition governing the implementation period is no longer necessary.
15. The compliance condition governing the materials to be used for the development is still necessary in the interests of the character and appearance of the host dwelling and surrounding area, and is therefore reimposed as condition No 1. The condition requiring installation of bat box(es) or swift nest box(es) within the site within two months of the date of substantial completion, and subsequent retention and maintenance, is still necessary in the interests of biodiversity, so will also be reimposed as condition No 2. I have corrected a typographic error relating to the word "integrated". The plans condition is necessary as the development has commenced and must be completed in accordance with the listed drawings in the decision, and is thus reimposed as condition No 3.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed and I vary the planning permission by deleting the disputed condition No 4. I have also deleted the condition governing the implementation period. I have also reinstated the other conditions that are still subsisting and capable of taking effect.

R Cahalane

INSPECTOR