



Appeal Decision

Site visit made on 13 January 2025

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 21 January 2025

Appeal Ref: APP/J0540/D/24/3355650

Springdale Cottage, First Drift, Wothorpe, Stamford PE9 3JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Diana Macduff against the decision of Peterborough City Council.
 - The application Ref 24/01195/WCPP, dated 10 September 2024, was refused by notice dated 15 October 2024.
 - The application sought planning permission for a two storey front/side extension and detached garage without complying with a condition attached to planning permission Ref 20/00404/HHFUL, dated 15 July 2020.
 - The condition in dispute is C5 which states that: Before the development hereby permitted is first occupied, the two proposed roof lights to the western side elevation of the dwellinghouse (serving the master bed as shown on the drawing number DM/REGS/02/2020) shall be fitted with obscure glazing to a minimum of Pilkington Level 3 and shall be non-opening. The obscure glazing shall be continuous and shall not incorporate any clear glazing features. The two roof lights shall subsequently be retained as such in perpetuity.
 - The reason given for the condition is: In order to preserve the amenities of neighbouring occupants, in accordance with Policy LP17 of the Peterborough Local Plan (2019).
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Decision

1. The appeal is allowed and planning permission is granted for a two storey front/side extension and detached garage without complying with condition C5 previously imposed on planning permission Ref 20/00404/HHFUL, dated 15 July 2020, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan
 - Existing Site Plan (received 05-03-2020)
 - Proposed Block Plan (received 27-04-2020)
 - Existing and Proposed Plans (Drawing number DM/REGS/01/2020, received 27-05-2020)
 - Existing and Proposed Floor Plans (Drawing number DM/REGS/02/2020, received 27-05-2020)

Reason: For the avoidance of doubt and in the interests of proper planning.

Main Issue

2. The main issue is whether condition C5 is necessary to protect the privacy of the occupiers of Dring House.

Reasons

3. Planning permission was granted in July 2020 for a two-storey extension to one side of Springdale Cottage, a two-storey detached house on the northwestern side of First Drift, and this has subsequently been built. The extension includes a master bedroom at first floor level with two rooflights facing towards the adjacent property Dring House. The original design was for these rooflights to be set below 1.7 m in height from floor level thus overlooking the garden of Dring House leading to a loss of privacy for its occupants. To avoid this, condition C5 was imposed to ensure the rooflights were obscure glazed and non-opening. However, in the event the rooflights were installed higher up the roofslope during construction and this was confirmed during the site visit with the height above floor level measured as about 2.1 m. As built therefore there can be no prospect of any overlooking from the master bedroom into the neighbouring garden and as a result the condition is superfluous.

Conclusion

4. For these reasons condition C5 is not necessary to protect the privacy of the occupiers of Dring House and it can therefore be deleted.
5. The effect of this decision is to issue a new retrospective planning permission for the development as built. As the scheme has been implemented and the Council have not raised any outstanding issues the only condition that needs to be reattached is condition C2 to define the approved plans.
6. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR