



Appeal Decision

Site visit made on 20 January 2025

by **K Williams MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19th February 2025

Appeal Ref: APP/B4215/D/24/3351720

9 Gillbrook Road, Manchester M20 6WH

- 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 Miss Nicola Richardson against the decision of Manchester City Council.
 - The application Ref is 139906/JO/2024.
 - The application sought planning permission for the removal of condition 5 (obscure glazing) attached to planning permission 135558/FH/2022 without complying with a condition attached to planning permission Ref 135558/FH/2022, dated 1 February 2023.
 - The condition in dispute is No 5 which states that: The first floor and second floor bedroom windows on the side elevation of the dwelling house, shall be obscured glazed to a specification of no less than level 5 of the Pilkington Glass Scale or other such other equivalent and shall remain so in perpetuity.
 - The reason given for the condition is: To protect the amenity and living conditions of adjacent residential properties from overlooking or perceived overlooking and in accordance with policies SP1 and DM1 of the Core Strategy.
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Decision

1. The appeal is allowed and planning permission is granted for removal of condition 5 (obscure glazing) attached to planning permission 135558/FH/2022 at 9 Gillbrook Road, Manchester M20 6WH in accordance with the terms of the application, Ref 139906/JO/2024 subject to the following conditions:
 - 1) The development hereby approved shall be carried out in accordance with the following drawings and documents: 00101,00102,00110, 00120,00121 and the Location Plan, stamped as received on the 22 November 2022.
 - 2) The development hereby approved shall be carried out in accordance with the materials as set out in drawings: 00101,00102,00110, 00120, stamped as received on the 22 November 2022.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification) no windows or doors shall be inserted into the elevations of the extension hereby approved other than those shown on the approved plans.

Preliminary Matter

2. The proposal relates to a property located on the corner of Gillbrook Road and Rushton Street. Alterations to 9 Gillbrook Road were previously approved. An obscure glazing condition was imposed on two windows serving bedrooms at first and second floor which face Rushton Street. The contentious matter is the removal

of the condition requiring the obscure glazing. The Council's reason for refusal was over this, and the increased level of overlooking and loss of privacy caused to the occupiers of 7 Gillbrook Road. The windows were already in situ at the time of my site visit.

3. The Council's decision notice refers to the removal of condition 3. However, this does not reflect obscure glazing. I have proceeded on the basis of the condition that was applied for removal, which was condition 5.

Main Issue

4. The main issue is the effect that removing condition 5 would have on the living conditions of the occupiers of 7 Gillbrook Road, with particular regard to privacy.

Reasons

5. The appeal site is located in a vibrant predominantly residential area, close to a local park, school and Didsbury centre. Gillbrook Road, Rushton Street and Knight Street are narrow and mainly comprise terraced and flatted homes. The layout and pattern of development is relatively tight knit. As a result the area is characterised by homes whereby there is a large degree of intervisibility between them.
6. The building at No 7 is the corresponding corner property across Rushton Street. Although it has been suggested that No 7 has a blank gable, the rear outrigger has a side first floor window and ground floor door, which the evidence suggests are to a bathroom and kitchen. These face Rushton Street and the small rear garden, enclosed by a boundary wall, also runs along it.
7. The windows on the first and second floor of the appeal property serve two bedrooms. It is understood the second floor window was previously in existence, and was also to a bedroom before the alterations to the property were undertaken. Furthermore it is also understood that this window was not obscurely glazed, and not a contentious matter for the Council's development compliance. Given that was the case, then I am not of the view that it was reasonable or necessary to impose the condition for obscure glazing for the window at second floor.
8. There would be an increase in windows, and the window position on the first floor is lower down and the view is more direct. The appellants evidence also illustrates that the window affords direct views between No 9 and No 7. However, the potential for overlooking would be broadly comparable to that from the second floor window. However, the first floor bedroom window is not particularly large, and is restricted by the casements design. Furthermore, for or a first floor bedroom window, there is also a reasonable distance from the garden boundary, kitchen door and bathroom window of No 7.
9. I appreciate the sensitivities expressed by the occupants of No 7, and I acknowledge that the neighbouring occupiers should not be expected to mitigate harm from development on adjacent land. However, I have no substantive evidence that given the bedroom's likely usage, in the context of a single family home, the potential for prolonged overlooking during the day from the appeal property would not be limited. Although the use of the bedroom would increase in the evenings, this would likely coincide with drawing curtains, blinds and shutters for privacy. As people are still likely to be discerned behind windows with a high

level of obscurity, having obscured glazing would not in my view significantly improve the perception of being overlooked.

10. In conclusion, combined with the separation distances, the pre-existing arrangements and in the context of the surrounding tightly knit townscape I am satisfied that the magnitude of the change is not significant. Thus the effect of the removal of condition 5, allowing windows without obscure glazing, would not have a harmful effect on the living conditions of the occupiers of 7 Gillbrook Road, with particular regard to privacy. The condition is therefore not reasonable or necessary and its removal would not conflict with Policies DM1 and SP1 of Manchester's Local Development Framework Core Strategy Development Plan Document, adopted July 2012 and updated March 2024. Together, these seek, amongst other things, to ensure that development has regard to privacy and the wellbeing of residents.

Conditions

11. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. It is not necessary to impose the time limit condition, as development has already commenced. I have imposed those others attached by the Council, which relate to approved plans and materials which are necessary for the avoidance of doubt. The conditions which seeks to prevent the insertion of further windows is necessary in the interests of surrounding neighbouring residents living conditions.

Conclusion

12. For the reasons given above, I conclude that the appeal accords with the provisions of the development plan and should be allowed. I shall vary the planning permission by deleting conditions 1 and 5 and renumbering the remaining conditions.

K Williams

INSPECTOR