



Appeal Decision

Site visit made on 8 April 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 June 2025.

Appeal Ref: APP/B5480/D/24/3350032

79 Parkstone Avenue, Hornchurch RM11 3LT

- 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 Sam Onuoha against the decision of the Council of the London Borough of Havering.
 - The application Ref is P0121.24.
 - The application sought planning permission for the erection of two storey, 5-bed detached dwelling with habitable roof space and amenity space, following demolition of existing dwelling without complying with a condition attached to planning permission Ref P1419.22, dated 21 December 2022.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall not be carried out other than in complete accordance with the approved plans (as set out on page one of this decision notice).
 - The reason given for the condition is: For the avoidance of doubt and to ensure that the development is carried out as approved.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Permission was sought for the variation of condition No 2 (approved plans) of planning permission P1419.22 to allow the addition of eight roof lights. There were rooflights in situ at the time of my site visit, which I was able to see from surrounding roads. However, for the avoidance of doubt I have determined the appeal on the basis of the submitted plans and my observations.

Main Issues

3. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties at 77 and 81 Parkstone Avenue with particular regard to privacy.

Reasons

4. The appeal site at 79 Parkston Avenue comprises a large detached dwelling and its grounds in a residential area. The rooflights would be positioned centrally mid-way between the eaves and the ridge of the roof. There would be four rooflights facing towards No 77, and three facing towards No 81. A centrally positioned rooflight on the rear roof plane would face the rear garden of the appeal property. The second floor plans show the rooflights would serve a cinema room and games room at third floor level within the roof space. These rooms are also served by large apex windows on the front and rear of the property.

5. The rooflights are generously sized in length and width. The proposed elevation drawings show the position of the roof lights relative to the finished floor levels of No 79. Their position roughly aligns with the photograph of the measured window submitted by the appellant. The rooflights on the side of the property are of such a scale, position and height that it would be possible for most people to see out of them at close range and when stood further back in the rooms.
6. Although there are other rooflights in the area, No 81 is a corner property, with a relationship to both Parkstone Avenue and Ernest Road. Therefore unlike the prevailing pattern of development, No 81 has a private garden area alongside the side boundary of the appeal property at No 79. Although the rooflights would be a reasonable distance from the windows on the property at No 81, No 79 is in very close proximity to the boundary with the more private garden area where people would expect to enjoy a greater degree of privacy.
7. Although the rooflights could be obscurely glazed, they would not be fixed shut. Taking into account that the proposal serves a third floor, the height of the rooms in the roof space and limited distance between the appeal property and the garden boundary of No 81, would make it possible for views into and across the garden and towards neighbouring windows. Although some views would be oblique, the steep angle of the roof increase the verticality of these windows, and therefore the ability to see out of them.
8. I was also able to see the appeal property roof from a number of areas from the footpath on Parkstone Avenue and in the context of the adjacent home at No 81. Because of their size, the rooflights would be conspicuous with the garden of this property. It is important to recognise that privacy effects arising from development can be a combination of actual and perceived effects. Given the number and size of the rooflights, the closeness of the appeal property to the boundary with No 81 would create an uncomfortable feeling that the garden may be overlooked, particularly if the rooflights were opened. This would make the garden in particular less pleasant to use as a result.
9. Whilst existing vegetation may provide some privacy screening, there is no guarantee this will always be in place. This cannot be considered a permanent solution and there would also be times of the year when some of the current vegetation may not be in leaf and hence views would be more open. The proposal would therefore result in opportunities for actual overlooking and loss of privacy and the occupiers of No 81 would endure a lasting perception of being overlooked.
10. The property at No 77, is located to the west of the appeal site. This is a lower property located close to the side boundary with No 79. It has garden space at the rear, with a driveway and small area of garden space to the side. There are windows on this property facing the side boundary of the appeal site. The rooflights would be at an oblique angle to the rear garden of No 77. The dwelling at No 77 would also obscure views, into the garden space immediately at the rear of the dwelling. There may be some scope for angled views looking down through the rooflights into the dwelling at No 77. However, occupants would have to fully open the rooflights and actively peer out and down towards the windows of this property. I am not of the view that occupants at No 77 would be able to fully appreciate the presence of the roof lights from the lower windows and gardens in the same way as the occupiers of No 81.

11. Both the cinema and games room are served by large apex windows on the front and rear, as well as an additional rooflight. Given the size and provision of these windows, I am not convinced that there is an overriding justification for the rooflights. The effects of the proposal could be fully mitigated through ensuring that the rooflights on the side elevations are obscurely glazed and fixed shut. However, the appellant has not indicated that this would be a suitable option. I also have no evidence that these other windows are openable to provide ventilation to impose such a condition. It has also not been demonstrated that the rooflights on other nearby properties have a similar relationship to their neighbours as exists between No 79 and 81, or that the proposal meets specific separation distances to private garden areas to alter my view.
12. Whilst I have the power to issue a split decision on an appeal, this power is discretionary, and I am not obliged to use it. I do not consider that the parts of the proposal which are acceptable, such as the rooflight on the rear and those facing No 77 would be clearly and easily defined with reference to the submitted drawings. As such I do not consider that a split decision would be appropriate in this case.
13. I conclude on this main issue that the proposal would be harmful to the living conditions of the occupiers of No 81 Parkstone Avenue with particular regard to privacy. This would be contrary to Policies 7 and 26 of the Havering Local Plan 2016 – 2031, November 2021. The proposal would also conflict with Policy D1 of the London Plan, The Spatial Strategy for Greater London, March 2021. Together these seek, amongst other matters, to ensure the amenity and quality of life for future residents is not adversely impacted and development integrates with the neighbourhood and grain of the area.
14. For similar reasons, the proposal would not accord with the guidance in the Residential Extensions and Alterations Supplementary Planning Document, adopted 2011. This advises planning permission will not be granted where proposals have an unacceptable adverse impact on the amenity of neighbours.

Conclusion

15. The proposal conflicts with the development plan overall and the material considerations do not indicate that the appeal should be decided other than in accordance with it. I therefore conclude condition No 2 is necessary in its current form and the appeal is therefore dismissed.

K Williams

INSPECTOR