
Appeal Decision

Site visit made on 24 October 2025

by **R Gravett BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/J4423/W/25/3370844

3 Kenwood Road, Sheffield S7 1NP

- 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 Mr Chris Travis against the decision of Sheffield City Council.
- The application Ref 25/01274/FUL was refused by notice dated 20 June 2025.
- The application sought planning permission for alterations to allow the use of the second floor as a dwelling (Use Class C3) including provision of side and rear windows and rooflights to front and side without complying with conditions 2, 3 and 4 attached to planning permission Ref 18/04440/FUL, dated 22 August 2019.
- The conditions in dispute are Nos 2, 3 and 4 which state that:
 - 2. The development must be carried out in complete accordance with the following approved documents:
Drawing no. 16/10/04/005D (second floor attic plan) as received on the 11th July 2019;
Drawing no. 16/10/04/006D (roof plan) as received on the 11th July 2019;
Drawing no. 16/10/04/007D (south and west elevations) as received on the 11th July 2019;
Drawing no. 16/10/04/008D (east elevation) as received on the 11th July 2019;
Drawing no. 16/10/04/009D (sections drawing) as received on the 11th July 2019; and
Drawing no. 16/10/04/002A (site layout plan) as received on the 5th April 2019.
 - 3. Notwithstanding the details shown on the approved plans, all of the proposed new rooflights shall be conservation-style rooflights, the details of which shall have been submitted to and approved by the Local Planning Authority prior to the new flat being occupied.
 - 4. Notwithstanding the details shown on the approved plans, the new second floor window to the east elevation (bedroom one of the proposed new flat) shall at all times be fully glazed with obscure glass (to a minimum level 4 obscurity) up to a height of 1.8 metres from the internal finished floor level of that room.
- The reasons given for the conditions are:
 - 2. In order to define the permission.
 - 3. In order to protect the character of the Nether Edge Conservation Area.
 - 4. In order to protect the interests and amenities of occupiers of neighbouring property.

Decision

1. The appeal is allowed and planning permission is granted for alterations to allow the use of the second floor as a dwelling (Use Class C3) including provision of side and rear windows and rooflights to front and side at 3 Kenwood Road, Sheffield S7 1NP in accordance with the application Ref 25/01274/FUL, without compliance with condition number 4 previously imposed on planning permission Ref 18/04440/FUL dated 22 August 2019 and subject to the following conditions:
 - 1) The development must be carried out in complete accordance with the following approved documents:

Drawing no. 16/10/04/005D (second floor attic plan) as received on the 11th July 2019;
Drawing no. 16/10/04/006D (roof plan) as received on the 11th July 2019;
Drawing no. 16/10/04/007D (south and west elevations) as received on the 11th July 2019;
Drawing no. 16/10/04/008D (east elevation) as received on the 11th July 2019;
Drawing no. 16/10/04/009D (sections drawing) as received on the 11th July 2019; and
Drawing no. 16/10/04/002A (site layout plan) as received on the 5th April 2019.

- 2) Notwithstanding the details shown on the approved plans, all of the proposed new rooflights shall be conservation-style rooflights, the details of which shall have been submitted to and approved by the Local Planning Authority prior to the new flat being occupied.

Background

2. Under s73 of the Town and Country Planning Act 1990 (as amended) ('the Act'), planning permission may be granted for the development of land without complying with conditions subject to which a previous planning permission was granted. Where such an application is made retrospectively, s73A of the Act provides that permission may be granted including development already carried out without complying with conditions to which planning permission was granted.
3. In this case, the Council granted planning permission in August 2019¹ for alterations to the second floor of the appeal property to allow its use as a dwelling, including the installation of windows to the side and rear (east) elevation and rooflights to the side and front roof planes ('the original permission'). Condition no.2 of the original permission specifies the approved plans. Condition no.3 required all new rooflights to be 'conservation-style' and the details to be submitted and approved by the Local Planning Authority prior to the flat being occupied. Condition no.4 required the window to the east elevation to be fully glazed with obscure glass (to a minimum level 4 obscurity) up to a height of 1.8m from the internal finished floor level.
4. I observed on my site visit that alterations have since been made to the second floor flat, known as 'Flat 8.' These include the installation of a different window and a new door on the rear elevation, and the installation of additional rooflights in the front and side roof planes. The application which is subject to this appeal sought to regularise this situation.

Main Issues

5. Having regards to the above, the main issues are:
 - the effect that varying condition 2 and 4 would have on the living conditions of the occupiers of Flat 7, with particular regards to privacy; and
 - whether varying condition 3 would preserve or enhance the character or appearance of the Nether Edge Conservation Area (CA).

¹ 18/04440/FUL

Reasons

Condition 2 and 4

6. The appeal property is a substantial three-storey detached building, which has been divided into flats. The main open plan kitchen and living space for Flat 8, a two-bedroom top-floor flat, is at the rear of the appeal property. A door has been installed within the rear (east) elevation which provides access from this living space to an uncovered external stairwell and small terrace, which is within the existing demise of the flat.
7. Although partly demarked by planters, there is no permanent boundary treatment between the terrace of Flat 8 and the larger terrace of the neighbouring flat, Flat 7. As a result, there is already overlooking between the terraces, and it is possible to look back into the patio doors of Flat 7 from the terrace of Flat 8. I also observed that from the threshold of the door of Flat 8, much of the neighbouring terrace can be seen.
8. Whilst I appreciate there is access to the terrace without the door, it is via a circuitous route through the internal common parts of the appeal property, around the outside perimeter and then up a steep, concrete external stairwell. It is unlikely that the occupiers of Flat 8 would use this route to access the terrace as often as they would a door which provides immediate, straightforward access. Given the door is solid with only a small obscure glazed panel, it is also likely that at times it would be kept open to afford the living and kitchen space of Flat 8 more natural light and ventilation. Consequently, the door results in an increased frequency and duration of overlooking of the patio doors and terrace of Flat 7, to the detriment of the privacy of these neighbours.
9. It is the appellant's evidence that the terrace was originally in the demise of Flat 7, but it was sold to reduce the owner's repairing liability for the roof. Whilst this may be the case, the absence of an objection from the occupiers of Flat 7 does not necessarily equate to an absence of harm, and I am mindful that paragraph 135 of the National Planning Policy Framework (the Framework) requires planning decisions to ensure that developments create places with a high standard of amenity for existing *and* future users.
10. Condition 4 of the original permission requires the window on the rear elevation to be fully glazed with obscure glass up to a height of 1.8 metres from the internal finished floor level. The window which has been installed in the rear elevation is clear glazed. However, because the outlook from this window is at an oblique angle toward the terrace of the neighbouring dwelling at Flat 7 the inclusion of clear glazing does not result in significant overlooking. Consequently, although narrower than the window shown on the approved plans of the original permission, obscure glazing is not required in relation to this new window. Therefore, I find that condition 4 is not necessary.
11. However, I have found that an openable door in the rear elevation would result in unacceptable effects on the living conditions of the occupiers of Flat 7, with particular regards to privacy. Therefore, varying condition 2 would conflict with saved Policy H14 of the Sheffield Unitary Development Plan (1998) which requires that new development does not deprive residents of privacy.

Condition 3

12. The appeal property is in the Nether Edge Conservation Area (CA). In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA. Insofar as relevant to this appeal, the significance of the CA is derived from its mix of different building styles including Victorian and Edwardian villas, and the prevalence of traditional features including sliding sash windows, decorative barge boards and natural slate roofs. The appeal property is an imposing stone-built Victorian villa with a steeply pitched slate roof which contributes positively to the character and appearance of the CA.
13. The planning application states that the rooflights installed on the front elevation are 'conservation type' and that the remaining rooflights would be 'recessed similarly'. It is not clear from the evidence before me whether all rooflights installed are 'conservation-style,' or whether they correspond with the details of the 'Velux centre-pivot roof window' provided. In this case, the Council has raised no issue in respect of the installation of the additional rooflights, subject to the condition that they are, or would be, 'conservation-style.'
14. Based on the evidence and my own observations on site, although located high on the roof planes, the rooflights are nevertheless visible from the ground and it is important that they do not detract from, or unduly dominate, the characteristic slate roof of the appeal property. Therefore, a condition which requires the installation of conservation-style rooflights and the details to be submitted to and approved by the Local Planning Authority, is necessary to preserve the character and appearance of the CA.

Other Matters

15. My attention has been drawn to a planning permission² granted by the Council to amend the original permission to allow a full height window to be installed on the rear elevation. Although in a similar position to the door, the approved plans show this window as 'fixed, with obscure glazing.' Therefore, it is not comparable to the openable door before me, nor does it lend support to it.
16. Paragraph 135 of the Framework requires planning decisions to create places which promote health and well-being and I acknowledge the health benefits associated with access to the outdoors. I also understand that provision of amenity space for Flat 8 in a corner of the rear car park is not feasible because of the presence of large trees. However, the level of overlooking I have found is more than the 'minor inconvenience' asserted by the appellant. Accordingly, any health benefits for the occupiers of Flat 8 would not outweigh the harm that I have found to the privacy of the occupiers of Flat 7.
17. Further, I am not satisfied that providing direct access to the uncovered stairwell from the door of Flat 8 would be beneficial in terms of providing safe access to the car park at the rear of the appeal property, given the appellant has said it is hazardous in wet or freezing conditions.

² LPA Ref. 21/02897/FUL

Conditions

18. The Planning Practice Guidance sets out that decision notices for the grant of planning permission under s73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged.
19. As the development pursuant to the original permission has been started, it is not necessary to impose a time limit condition. However, for the reasons I have given above in respect of the first main issue, it is necessary to impose a condition which specifies the approved plans, which for the avoidance of any doubt are the approved plans of the original permission. It is also necessary for the reasons given in respect of the second main issue, to impose a condition which requires all new rooflights to be conservation-style.

Conclusion

20. For the reasons set out above, I find that the proposal would conflict with the development plan, read as a whole. No material considerations, individually or cumulatively, outweigh this conflict. However, although I have not found in the appellant's favour in respect of conditions 2 and 3, the effect of removing condition 4 is to allow the appeal and grant planning permission on this basis.

R Gravett

INSPECTOR