
Appeal Decision

Site visit made on 21 November 2025

by **C Shearing BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2025

Appeal Ref: APP/C1435/D/25/3371736

Prospect Cottage, The Green, Ninfield, East Sussex TN33 9JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr James Datchler against the decision of Wealden District Council.
 - The application ref is WD/2024/2147/FR.
 - The development proposed is demolition of conservatory and construction of a single storey side extension.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of conservatory and construction of a single storey side extension at Prospect Cottage, The Green, Ninfield, East Sussex TN33 9JE in accordance with the terms of the application, Ref WD/2024/2147/FR, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with drawing nos 01/B, 02, 03/K.

Application for Costs

2. An application for costs has been made by Mr Datchler against Wealden District Council. That application is the subject of a separate decision.

Preliminary Matters

3. I have amended the description of development in the banner heading above to remove the reference to the development being retrospective, since that is not a description of development. However, I observed during my site visit that the former conservatory has been removed and the extension which is the subject of this appeal is substantially complete and in use.

Background and Main Issue

4. The appeal site received planning permission in October 2021 for a single storey side extension with associated demolition of the garage and conservatory¹. The appellant's evidence sets out that the extension which was subsequently built did not fully accord with those approved drawings and necessitated the planning application which is now the subject of this appeal.
5. The main issue is the effect of the extension on the living conditions of occupants of the neighbouring property, with particular regard to privacy and light.

¹ Council's reference WD/2021/1823/F

Reasons

6. Policy EN27 of the Wealden Local Plan 1998 (the WLP) sets criteria for when proposals will be permitted which includes that the development should not create an unacceptable adverse impact on the privacy and amenities of adjoining development by reason of factors including scale, height and form. Policy N10 of the Ninfield Neighbourhood Plan 2024 (the NNP) similarly includes that new development will be supported where it does not adversely affect the residential amenities of any neighbouring dwellings.
7. The replacement extension has been built alongside a ground floor bathroom window which serves the neighbouring property, Prospect House. While that window is not shown on the existing plans, the evidence shows that window previously opened into a small 'yard', being a gap behind the former conservatory which was open to the sky above. The yard contained soil and water pipes, and comprised brick walls as well as a large obscure glazed panel facing into the appellant's conservatory.
8. As a result of the works undertaken, the yard has been removed and that space enclosed with a solid roof above. The appellant refers to the current boxing around the bathroom window as temporary, with the intention to convert it into a service cupboard as shown on the drawings. As a consequence of the appellant's works I observed the low-ceilinged bathroom of the neighbouring property receives only secondary light via the new extension and lacks any passive ventilation, contributing to dark and damp conditions inside.
9. I do not consider there to have been a harmful loss of privacy to that bathroom as a result of the works, since the window is obscure glazed and enclosed. Access to the area by the appellant would be for maintenance only and I consider this an improvement from the previous conditions evidenced, where there was a degree of intervisibility between the bathroom and the previous conservatory².
10. Details of the former lighting conditions of the ground floor bathroom have not been provided, however, natural lighting would very likely have been reduced by the enclosure of the window. The bathroom is a non-habitable room and one where occupants are generally expected to spend less time than in other habitable rooms of the house such as main living areas. In considering the accommodation of Prospect House as a whole, I do not consider the effects on natural lighting to the bathroom amount to an unacceptable adverse impact on its amenities, as set out in the development plan policies.
11. The affected ground floor bathroom is the only bathroom accessible to a wheelchair user in that property, and is a space where they can receive treatment. It is also used by other occupants with disabilities. Therefore the development presents potential impacts on those with protected characteristics and I am mindful of the duties of the PSED³. While the reduction in natural lighting experienced by those users is an important consideration, the erected extension does not render the bathroom unusable and it is not apparent that it changes the way in which it may be used by those with disabilities.

² Figure 5.1 of the Appellant's Statement of Case

³ The Public Sector Equality Duty set out in s149 of the Equality Act 2010

12. The glazed panel currently in situ above the access door is now an internal fitting and could not be reasonably maintained by a planning condition. The appellant proposes a sun pipe and mechanical ventilation system which have not yet been installed. Similarly, given these are shown as internal fixtures I am not convinced that it would be reasonable to secure them as part of any planning permission. They would, nonetheless, improve conditions in the bathroom once installed.
13. I observed conditions of the first floor bathroom of Prospect House, which is now close to the pitched roof of the new extension, and viewed the extension from the closest rear-facing bedroom window. While the views from those windows have been altered by the development, I do not consider the extension has caused harm to the conditions experienced within those rooms, including in terms of natural light.
14. Overall, for the reasons given, while there have inevitably been undesirable effects on the conditions of the ground floor bathroom, this does not amount to an unacceptable adverse impact on the living conditions of the neighbouring occupants. As such the development does not conflict with Policy EN27 of the WLP or N10 of the NNP summarised above. I do not find conflict with the Wealden Design Guide 2008, since it provides guidance relevant to considerations of design and living conditions generally.

Other Matters

15. There are undoubtedly other important matters relating to the effects of the extension, including ventilation, maintenance, ownership and building regulations, as suggested by the representation of the neighbouring occupiers. However, legislation exists outside the planning regime to assist with these matters and I have no strong reason to doubt that they are capable of resolution separately. As such they attract limited weight as factors against the grant of planning permission.
16. The main parties agree that both Prospect Cottage and Prospect House are non-designated heritage assets, acknowledged by the NNP. Given the position, scale and design of the extension, it preserves the significance of these assets and the domestic setting in which they are appreciated. Given the distance from the grade II listed Stocks and Whipping Post together with the intervening structures, its setting would also be preserved.

Conditions

17. The Council's Committee Report suggested conditions that should be imposed if planning permission were granted and I have considered those in light of the tests for conditions set out in the Planning Practice Guidance. Given the progress of the extension, it is not necessary to condition timescales or building materials. A condition is imposed to ensure the development is otherwise carried out in accordance with the approved drawings to provide clarity to all parties.

Conclusion

18. For the reasons given, the appeal is allowed.

C Shearing

INSPECTOR