
Appeal Decision

Site visit made on 3 October 2025

by **O Tresise MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 January 2026

Appeal Ref: APP/D0121/W/25/3368923

Glen Orchy, Lake Rd, Lake Road, Portishead, BS20 7JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Edward Robertshaw against the decision of North Somerset Council.
 - The application Ref 25/P/0961/FUH was approved on 7 July 2025 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a two storey extension, removal of existing pitched roof at first floor level, enlargement of first floor and erection of new pitched roof, removal of existing side pitched roofs to single storeys and replacement with flat roofs (one to be a green roof) and changes to fenestration.
 - The condition in dispute is No 3 which states that: *'Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification), no windows, rooflights or dormers (other than any expressly authorised by this permission) shall be inserted in the north and south elevations of the first floor without the prior written consent of the Local Planning Authority.'*
 - The reason given for the condition is: *'To protect the living conditions of occupiers of adjoining properties and in accordance with policies DM32 and DM38 of the North Somerset Sites and Policies Plan (Part 1) and the North Somerset Residential Design Guide SPD (Section 1: Protecting living conditions of neighbours).'*
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Decision

1. The appeal is allowed and the planning permission Ref 25/P/0961/FUH for the erection of a two storey extension; removal of existing pitched roof at first floor level; enlargement of first floor and erection of new pitched roof; removal of existing side pitched roofs to single storeys and replacement with flat roofs (one to be a green roof) and changes to fenestration at Glen Orchy, Lake Rd, Portishead, BS20 7JA granted on 7 July 2025 by North Somerset Council, is varied by deleting condition 3 and substituting for it the following condition:
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification), no windows or dormers (other than any expressly authorised by this permission) shall be inserted in the north and south elevations of the first floor without the prior written consent of the Local Planning Authority.

Applications for costs

2. An application for full costs was made by Mr Edward Robershaw against North Somerset Council (the Council) and an application for partial costs against an interested party, Councillor Timothy Snaden. These applications are the subject of separate decisions.

Preliminary Matter

3. During the appeal, the Council approved a Section 73 (S73) application to vary condition 2 (plans) attached to the planning permission subject of this appeal. This resulted in a further planning permission. Both main parties had an opportunity to comment on its relevance, and I shall take into account to the extent that this is relevant.

Background and Main Issue

4. Planning permission was granted with a condition removing permitted development rights for windows, rooflights and dormers to the consented scheme. The Council considers the condition to be necessary to protect the living conditions of the occupiers of adjoining properties. The appellant, however, objects to the condition as he considers it to be unreasonable.
5. The main issue, therefore, is whether the disputed condition is reasonable and necessary to safeguard the privacy of the occupiers of the neighbouring properties at Copper Cliff and Shiplanes.

Reasons

6. Glen Orchy is a detached bungalow with living accommodation within the loft space. It occupies a rectangular plot of sufficient size to accommodate the dwelling and associated garden areas. The dwelling is set significantly back from the road, resulting in a larger front garden and a reduced rear garden when compared with the adjoining residential properties, Copper Cliff and Shiplanes. The bungalow also sits on elevated ground, which increases its prominence within the local streetscape.
7. Paragraph 55 of the National Planning Policy Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so, and the Planning Practice Guidance also advises that conditions restricting the future exercise of such rights may not pass the test of reasonableness or necessity.

Windows and dormers

8. The consented scheme would enlarge the first-floor accommodation by raising eaves height, resulting in the first-floor structure being positioned closer to the boundaries with neighbouring properties. The approved drawings show no openings within the first-floor side elevations, and, on that basis, the consented scheme would not give rise to concerns regarding overlooking or loss of privacy. However, in order to safeguard the living conditions of the neighbouring properties, the Council imposed a condition removing permitted development rights so that any future windows or dormers proposed in the first-floor side elevations would require express planning permission.
9. The appellant disputes that such a condition is reasonable or necessary as permitted development rights already contain sufficient provisions to safeguard the privacy of the neighbouring properties. However, an insertion of any additional windows or dormers on these side elevations under permitted development rights would materially alter the intervisibility between the dwellings. Owing to the elevated position of Glen Orchy and its significant set-back from the adjoining properties, new openings on either side elevation would afford more elevated

sightlines into adjoining private gardens. In such circumstances, the introduction of further openings at first-floor level, even where obscure glazing or limited openings would be required under the General Permitted Development Order (GPDO), would be likely to result in perceived or actual overlooking harmful to the living conditions of neighbouring properties.

10. Furthermore, the GPDO places no restrictions on the size or number of openings that may be installed in side elevations. For these reasons the standard safeguards provided under permitted development rights would not be adequate to protect the living conditions of neighbouring occupiers in this particular context. Accordingly, the removal of permitted development rights for the installation of windows and dormers is both reasonable and necessary.
11. The appellant contends that the removal of permitted development rights would restrict freedoms enjoyed by other comparable dwellings in the neighbourhood. However, there is little evidence before me to demonstrate that other dwellings in the neighbourhood share the same site-specific circumstances. The elevated position, significant set-back from the adjoining properties and unusual sightlines at the appeal site create a distinct potential for overlooking or perception of overlooking, which would justify the removal of permitted development rights in this instance.
12. The appellant states that new openings could be installed under permitted development rights on the existing property. Whilst I accept that they could be installed on the appeal property in some circumstances, their effects would not be worse than the appeal proposal. Therefore, I ascribe this suggestion described limited weight and it makes no difference to my findings above.
13. The appellant refers to a refused scheme which related to a side and front extensions to the appeal property, and which was allowed under appeal ref.: APP/D0121/D/25/3359903. The appellant highlights that the previous inspector did not remove permitted development rights at the appeal. However, the scale of the previously allowed scheme different from the consented scheme before me. In particular, the eaves height of the allowed scheme is considerably lower, and the gable walls on the south side elevation are modest in scale. Consequently, the circumstances of the earlier appeal are not directly comparable.
14. The appellant also stated that the permitted development rights were not removed on the recently approved S73 scheme. However, the scale of that amended scheme is materially smaller than the appeal proposal before me. In particular, the submitted drawings show no material changes to the first-floor layout at the rear of the existing dwelling and, as such, the first-floor element would not extend towards neighbouring properties. By contrast, the appeal proposal before me would introduce first-floor development closer to neighbouring boundaries, which give rise to particular sensitivities, in terms of overlooking or perception of overlooking. Therefore, this does not alter my findings above.
15. Accordingly, I conclude that the removal of permitted development rights for windows and dormers is necessary.

Rooflights

16. With regard to rooflights, I am satisfied that such features would not give rise to the same concerns as windows and dormers. Given that the new roof would be quite

shallow, and rooflights would be installed within the plane of the roof, any views would be directed upwards rather than towards neighbouring properties. Consequently, rooflights would be unlikely to result in overlooking or a loss of privacy. Therefore, the removal of permitted development rights for rooflight would not be necessary in this regard.

17. Accordingly, I conclude that the removal of permitted development rights for rooflights is not necessary.

Other Matter

18. Whilst the Council may not have given the appellant an opportunity to address the Council's concerns during the planning application process, it is no statutory requirement for the Council to seek a prior agreement before imposing such a condition. Furthermore, the condition does not prevent the approved scheme from being implemented.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

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INSPECTOR