



Appeal Decision

Site visit made on 2 February 2023

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Appeal Ref: APP/K2230/W/22/3302003

22A Wrotham Road, Gravesend, Kent DA11 0PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Devinder Harry against the decision of Gravesham Borough Council.
 - The application Ref 20211175, dated 18 October 2021, was approved on 13 January 2022 and planning permission was granted subject to conditions.
 - The development permitted is retrospective application for a single storey rear extension.
 - The condition in dispute is No.3 which states: *Within 6 months of the date of this permission, the kitchen window in the southern side elevation of the extension hereby permitted shall be made obscure glazed, to a level at least equal to Level 3 on the Pilkington Scale, and non-openable below a level of 1.7m. above the adjacent internal floor level. The obscure glazing shall be retained in perpetuity.*
 - The reason given for the condition is: In the interest of neighbouring privacy, in accordance with Gravesham Local Plan: Core Strategy Policy CS19.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal relates to a ground floor flat in a two-storey semi-detached building converted to two flats. The flat has been enlarged by the addition of a single storey rear extension to provide a new kitchen and living area. The extension has rear facing windows and doors and a side window in the southern flank wall. The appellant objects to condition 3, imposed to control the side window's glazing and opening.
3. The main issue therefore is whether the condition is reasonable and necessary to safeguard the privacy of occupiers at a neighbouring dwelling.

Reasons

4. The side window is clear glazed and has a transom at about 1.7m above the floor level of the extension. Below the transom is a large, full width non-opening window whilst above it are two narrow half width openable windows. There is a brick wall on the southern boundary with 23 Wrotham Road between the buildings' outriggers, beyond which the back gardens are separated by a timber fence. At the time of my site visit, the first panel to the timber fence had blown down. This is alongside the extension's flank window and enabled clear views through the window to the rear part of the back garden to no.23 and oblique views back towards a rear facing kitchen window.

5. The clear glazed nature of the large lower pane gives rise to a level of overlooking and loss of privacy not generally supported in residential extensions. Even if the fence were to be repaired to its former level, it would still be possible to look through the window, over the fence, to the adjacent garden. The development as constructed is thereby contrary to Policy CS19 of the Gravesham Local Plan Core Strategy (2014) relating to design principles; this requires new development to be constructed to "*safeguard amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land*".
6. The issue of privacy would be mitigated if the large lower pane were to be obscure glazed, as required by condition 3 to the planning permission. The two upper windows could remain clear glazed to provide outlook towards the sky and remain openable to enhance ventilation in the room. I therefore find condition 3 to be reasonable in its requirements and necessary to safeguard privacy. The condition is clearly phrased and satisfies the tests for planning conditions set out at Paragraph 56 of the National Planning Policy Framework.
7. The appellant has suggested an alternative condition to obscure glaze the panes to the upper windows above the transom. Such treatment would not address the problem I have identified in relation to overlooking through the clear glazed pane beneath the transom.
8. The flat has a rear facing window in the main wall to the building and a bay window to the flank of the outrigger both of which afford oblique views over the boundary wall towards parts of the garden at no.23. The existence of these windows does not justify retention of the present clear glazed window in the flank of the extension which gives rise to greater levels of loss of privacy in the rear part to the back garden and to a rear facing kitchen window.
9. The appellant points out that the flank window in the extension has a lower floor level than the rear facing and bay windows originally constructed with the building. Whilst this is correct, it is the height of the flank window above floor level within the extension that is the main determining factor in assessing resultant loss of privacy.
10. The appellant has also raised issues regarding how the planning application for the extension and an officer site visit were handled. These are not matters for my consideration and have not influenced the determination of this appeal which has related to the planning merits of the contested condition.

Conclusion

11. My findings are that condition 3 is reasonable and necessary to safeguard privacy at 23 Wrotham Road. For the reasons given above, I conclude that the appeal should be dismissed, and the condition retained in its present form.

Rory MacLeod

INSPECTOR