Planning Inspectorate

Appeal Decision

Site visit made on 22 September 2025

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 October 2025

Appeal Ref: APP/M3835/W/25/3367869
The Drive, Mill Lane, Salvington, Worthing, West Sussex BN13 3DF

- 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 73A of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Ryan Flippance of Harlington Homes Limited against the decision of Worthing Borough Council.
- The application Ref is AWDM/1395/24.
- The application sought planning permission for amendment to planning permission AWDM/0692/20 to development 2no.4-bedroom detached houses on plot 3 of consented scheme AWDM/1566/13. The amendments involve large dwelling footprints, without complying with a condition attached to planning permission Ref AWDM/0629/20, dated 18/05/2021.
- The condition in dispute is No4 which states that:
  Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification),
  1) No new windows shall be inserted in the upper floors or roof of any of the following elevations:
  a) Plot 1: north; east; west
  b) Plot 2: north; east; west
  c) Plot 3a: north; south; west
  d) Plot 3b: north; south; west
  2) The following first floor windows shall be obscure-glazed and non-opening up to a height of 1.7 measured from finished floor level:
  a) Plot 1: west elevation
  b) Plot 2: east elevation
  c) Plot 3a and 3b: north elevation; (bathroom)
  3) The following windows shall be obscure glazed and non-opening:
  a) Plot 3a south facing landing/stair window, south facing first floor bedroom window (bedroom 4/study), south facing rooflight windows, west facing rooflight window
  b) Plot 3b south facing rooflight windows, west facing rooflight window
  and the above windows shall not subsequently be altered in any way.
- The reason given for the condition is: To prevent overlooking and to comply with saved policy H18 of the Worthing Local Plan.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The proposal seeks to vary Part 3) a) of condition 4 that refers the south facing roof light windows of plot 3A to be obscure glazed and non-opening. The proposal seeks these requirements to be removed, that is, for the windows to be fitted with clear glazing and the rooflights to be openable. The main issue is whether harmful

overlooking and loss of amenity to the occupiers of 12A Woodlands Avenue would arise as a result of these alterations.

Reasons

3. No.12A Woodlands Avenue is positioned at a lower ground level to that of the appeal property. The local planning authority has provided photographs taken from the rear garden of No.12A Woodlands Avenue toward Plot 3A that illustrate this. No.12A Woodlands Avenue hosts windows in the rear elevation facing the appeal site. The rear garden provides the private outdoor amenity space for the occupiers of that dwelling.

4. The rooflight windows have the potential to facilitate overlooking of 12A Woodlands Avenue from an elevated position. There is a history of planning permissions relating to this site. Previous planning considerations relating to these rooflight windows had regard to the fact that they would be less than 1.7m in height above internal floor level. In view of this the local planning authority considered these rooflights should be obscure glazed and fixed shut to obviate any potential overlooking.

5. The appellant contends that this part of the Condition 4 is unduly onerous in relation to the rooflight windows as they are modest in size and function principally as a means of providing light into the loft space. Furthermore, it is suggested that they do not provide opportunities for overlooking as part of the everyday use of the property by virtue of their angle, being located within the sloping roof. As such, it is contended that the condition in respect of the restrictions placed upon the rooflights is not necessary.

6. I have been provided Plan Reference PL-011 Revision P4: Plots 3A and 3B, Floor Plans, Elevations and Sections. That plan is listed as one of the approved plans under Condition 1 of planning permission AWDM/0692/20. The proposal before me that is subject of this appeal does not seek to amend or vary any of the drawings as granted planning permission. That drawing provides a ‘typical section’ detail that annotates the cill height of the rooflights to be 1.2m above internal ground floor level within the roof space. Although the permitted plans do not illustrate a possible use for this internal floor space, it forms part of the internal living space relating to the dwelling at plot 3A and, as such, could be used as habitable living space.

7. The occupiers of neighbouring properties should reasonably expect to enjoy an acceptable living environment as part of their residential lives. There would be elevated outlook from internal living space toward that neighbouring occupier given the low positioning of the rooflights within the side roof slope. Furthermore, the limited separation between the private rear garden of No.12A Woodlands Avenue, alongside elevated outlook toward the rear windows of that property, would allow for overlooking of No.12A. This loss of privacy would be harmful to the living conditions that the existing occupiers of No.12A Woodlands Avenue should reasonably expect to enjoy. I, therefore, consider the condition to be necessary as it is currently set out.

8. Policy DM5 of the Worthing Local Plan 2023 requires, amongst other matters, new development not to have an unacceptable impact on the occupiers of adjacent properties, particularly of residential dwellings, including unacceptable loss of privacy. I have found that the variation of condition 4 Part 3) a) would create

harmful overlooking and loss of amenity to the occupiers of 12A Woodlands. For this reason, the proposal would conflict with Policy DM5.

Decision

9. Having regard to the above findings, the appeal is dismissed.

Nicola Davies

INSPECTOR