Planning Inspectorate

Appeal Decision

Site visit made on 20 February 2025

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/M3835/D/24/3355920
16 Keymer Crescent, Worthing, West Sussex BN12 4 LE

- 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 73 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 Mr Stuart Jewell against the decision of Worthing Borough Council.
- The application Ref. is AWDM/0612/24.
- The application sought planning permission for a side single storey extension to east elevation and enlarged entrance porch to south elevation without complying with conditions attached to planning permission Ref. AWDM/1726/20, dated 24 December 2020.
- The conditions in dispute are Nos. 1) & 4) which state that:
- 1) '*The development hereby permitted shall be carried out in accordance with the following approved plans unless specified otherwise in a subsequent condition imposed on this decision notice: EXISTING AND PROPOSED ELEVATIONS SHEET 2 2012.P-05A 23.12.2020; GROUND FLOOR PLAN AS PROPOSED 2012.P03 A 23.12.2020; SITE LOCATION AND SITE BLOCK PLAN 2012.P-01; GROUND FLOOR PLAN AS EXISTING 2012.P-02 22.10.2020; EXISTING & PROPOSED ELEVATIONS SHEET 1 2012.P-04 22.10.20.*
- 4) *The window in the north side elevation of the extension hereby permitted shall at all times be glazed with obscure glass.*
- The reasons given for the conditions are:
- 1) *For the avoidance of doubt and in the interests of proper planning.*
- 4) *To prevent overlooking and to comply with saved Policy H18 of the Worthing Local Plan.*

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the clear glazed side window in the recently built side extension at No. 16 Keymer Crescent on the living conditions for the occupiers of No. 18, with particular reference to overlooking and privacy. (The Council has no objection to the fitting of the roof lantern as referred to in the details of the development).

Reasons

3. The application window has been built to the size and in the position approved in the original permission ref. AWDM/1726/20, dated 24 December 2020 but with clear rather than the obscure glazing required by condition no. 4 in the permission. There are three other clear glazed windows in this elevation, but it is because the window is directly opposite the rear garden of No. 18 that the application was refused.

4. The appellant contends that because of the height of the boundary fence it is impossible to see into the garden of No. 18. The Officers Report essentially concurs with this through its observation that there are only views above the fence line of the open space and vegetation in the garden of No. 18. The Report also says it is considered that actual loss of privacy for the occupiers of No. 18 would only occur at an oblique angle when standing very close to the window. I agree but consider that such a loss of privacy would be extremely slight, and I see no conceivable reason why anyone would be motivated to take this action.

5. Ostensibly, the content of paragraph 4 above supports the case for the appeal to be allowed. However, the Officers Report includes the following analysis: *'Notwithstanding the above, the window in question is highly visible from the neighbour's garden, and owing to its height, size, orientation and proximity facing onto the neighbour's modest garden area, gives rise to a clear perception of overlooking, the overall effect of which can be considered to be intrusive'*.

6. From the grounds of appeal, I am aware that for the appellant does not in any way accept this point. He considers that it is impossible to have a 'perception' of overlooking as it is wholly a factual matter – there either is overlooking or there isn't. I can entirely understand why he holds that ostensibly logical opinion. However, the Council will be aware from many previous householder applications, as indeed I am from many previous appeals, that a perception of being overlooked and a resultant sense of lost privacy is indeed a valid objection and one that can carry significant weight in the decision-making process.

7. I also accept the Council's argument that material weight should be given to the planning permission being subject to condition no. 4 requiring this window to be fitted and retained in obscure glass. Indeed, for a flank window facing a neighbour's garden or patio this is invariably included because a boundary fence or planting may not be maintained or indeed retained in perpetuity by the property's owner or occupier. I have not been advised of the ownership of the fence in this case, but the principle of this aspect of development management remains sound.

8. I have taken account of the special reasons why the clear glazing is important to the appellant's family and have sympathy with the submissions made. Nonetheless, for the reasons explained I conclude on balance that the disputed conditions on planning permission Ref. AWDM/1726/20, dated 24 December 2020 should remain. This is to safeguard the living conditions for the occupiers of No. 18 and to ensure compliance with Policy DM5viii) of the Worthing Local Plan 2020-2036 adopted 2023; the Council's Supplementary Planning Guidance 'Extending or Altering your Home', and paragraph 135f) of Government policy in the National Planning Policy Framework, revised in December 2024.

Conclusion

9. For the reasons explained above, the appeal fails.

Martin Andrews

INSPECTOR