The Planning Inspectorate

# Appeal Decision

Site Visit made on 2 June 2021


**by Mr Andrew McGlone BSc MCD MRPTI**

**an Inspector appointed by the Secretary of State**



**Decision date: 7 June 2021**


**Appeal Ref: APP/B3438/W/21/3268276**
**Talgarth, 5 New Lane, Brown Edge ST6 8TQ**

- 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 Kevin Sherratt against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2020/0425, dated 4 August 2020, was approved on 11 December 2020 and planning permission was granted subject to conditions.
- The development permitted is proposed dormer windows to the front and rear of dwelling.
- The condition in dispute is No 4 which states that: *The dormer window in the front elevation shall be installed with obscured glazing. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as subsequently may be amended or re-enacted) this window shall not be re-glazed with any transparent materials or enlarged or otherwise altered, nor shall any additional door, window or other opening be formed in that elevation unless a further planning permission has first been granted on application to the Local Planning Authority.*
- The reason given for the condition is: *To protect the privacy and amenity of neighbouring occupiers in accordance with Policy DC1 of the Staffordshire Moorlands Local Plan 2020 and the National Planning Policy Framework.*

## Decision

1. The appeal is allowed and the planning permission Ref SMD/2020/0425 for proposed dormer windows to the front and rear of dwelling at 5 New Lane, Brown Edge ST6 8TQ granted on 11 December 2020 by Staffordshire Moorlands District Council, is varied by deleting condition No 4 and substituting it for the following condition:

    4) The dormer window in the front elevation shall be installed with obscured glazing and shall be non-opening, unless those parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as subsequently may be amended or re-enacted) this window shall not be re-glazed with any transparent materials or enlarged or otherwise altered, nor shall any additional door, window or other opening be formed in that elevation unless a further planning permission has first been granted on application to the Local Planning Authority.

## Main Issue

2. The main issue is whether the disputed condition is necessary and reasonable having regard to the living conditions of the occupiers at Church View in terms of privacy.

## Reasons

3. Talgarth is a detached bungalow set back from the road and within a residential area. The property has ground floor windows that face the road. Considerable progress has been made to form a first-floor extension[1] above. Internal works to the bedroom and en-suite bathroom are not complete, but two-obscure glazed roof lights in the front roof plane are present. The planning permission[2] later granted by the Council would see the roof lights replaced by dormer windows. Condition No 4 only relates to the front dormer window.

4. At a right angle to and forward of Talgarth is Church View which has ground and first floor windows serving a lounge, dining room and two bedrooms. Church View is on a slightly higher ground level and it has a small paved area between the front elevation and a low wall. The windows in Church View and the appeal property permit views between each property and their front garden areas, though the wall partly screens the relationship between the ground floor room windows.

5. However, these windows do not directly face one another. Hence, the space about dwellings standards in the Council's Supplementary Planning Guidance are not entirely relevant in this case and neither the existing or proposed relationship could accord with the standards even if they did. Nevertheless, according to Policy DC1 of the Staffordshire Moorlands Local Plan (Local Plan) new development should protect residential amenity in terms of privacy.

6. Although the two roof lights in situ open, views from within the main bedroom towards Church View are restricted by each window pane and the head height within the room at the point where the roof lights are. When these windows are closed, no views are possible. In comparison, the dormer window would be closer to the appeal property's front elevation and would allow persons to stand or sit at the window due to the internal head height. A combination of these factors and the existing relationship between the appeal property and Church View mean that there would be a loss of privacy if the windows in the front dormer are not obscure glazed.

7. Whilst views are oblique and there is already a degree of overlooking between the two properties, a front dormer window with clear glazing would exacerbate this to a point whereby the living conditions of the occupiers of Church View would not be protected. The effect would be felt within the dining room and both first floor bedrooms. There would also be a greater perception from within Church View of being overlooked. Hence, the disputed condition is necessary and reasonable to make the development acceptable. Obscure glazing would still allow daylight to serve the bedroom and an outlook would be possible through the rear dormer window as obscure glazing is not required here.

8. Under section 79(1) of the Act I can reverse or vary any part of the decision of the local planning authority. Due to the relationship it is also necessary and reasonable to amend the disputed condition so that the windows in the front dormer are non-opening below 1.7 metres. Despite the existing roof lights, I have set out why the relationship and thus the effect would not be the same.

9. I conclude that the removal of condition No 4 would be unwarranted having regard to Local Plan Policy DC1. Thus, the disputed condition is necessary and

[1] Council Ref: SMD/2017/0793
[2] Council Ref: SMD/2020/0425

reasonable so that the privacy of the occupiers at Church View is protected. However, the windows in the front dormer window below 1.7 metres should also be non-opening. Hence, I shall delete the originally worded condition and replace it with one that also addresses this. The effect is to allow the appeal.

**Conclusion**

10. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition and substituting it with a new condition.

*Andrew McGlone*

INSPECTOR