The Planning Inspectorate

Appeal Decision

Site Visit made on 6 July 2021

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2021

Appeal Ref: APP/B3438/W/21/3272840
Mistra, School Road, Bagnall ST9 9JP

- 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 & Mrs Holdcroft against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2020/0591, dated 5 October 2020, was approved on 27 January 2021 and planning permission was granted subject to conditions.
- The development permitted is 'single storey garage extension and x3 side elevation windows'.
- The condition in dispute is No 6 which states that: The three proposed new windows in the north-east side elevation of the dwelling as shown on the above drawings hereby approved shall be fitted with obscure glazing to level 5 minimum) from the Pilkington range or equivalent. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or as subsequently may be amended or re-enacted) those windows shall not be re-glazed with any transparent materials and shall not be enlarged or otherwise altered, nor shall any additional 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 amenity and living conditions of the adjoining residential property from overlooking or perceived overlooking.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal has been lodged the revised National Planning Policy Framework (the Framework) has been issued on 20 July 2021. However, there have been no material changes to the requirements in the Framework's policies for developments to provides high standards of amenity. Therefore, it has not been necessary to go back to the parties for further comments in this particular instance.

3. The appellant's submission includes a revised drawing. Given its pertinence to the appellant's case, I have taken this plan into consideration insofar as it illustrates the potential position of a pedestrian door in the north-east side elevation of the approved garage extension.

Background and Main Issue

4. The garage extension and side windows which have been granted planning permission would sit close to the boundary with the neighbouring property annotated on the site location plan provided as 'Anvil Oaks'. The appellant's

principal concern relates to the restriction within Condition 6 which prevents any other opening being formed in the north-east elevation of the dwelling as this would prevent them from providing a pedestrian door to the garage extension on this side elevation. I have therefore primarily focussed on this particular matter within my assessment of the main issue.

5. The main issue is therefore whether Condition 6 is reasonable and necessary, having regard to the living conditions of occupiers of Anvil Oaks, School Road with particular regard to privacy.

Reasons

6. The dwellings at Mistra and Anvil Oaks are set back a substantial distance from their front boundaries and there is mature planting within their frontages including to their shared boundary. Consequently, the immediate frontages of these dwellings currently benefit from good levels of privacy.

7. On my site visit, I saw for myself that the boundary of the site with Anvil Oaks tapers towards the position of the approved garage extension. Based on the site block plan and the internal floor plan provided, a door opening to the north-east side elevation to serve the garage would be at a point within this elevation where the building would either abut or afford only very limited space between the boundary with Anvil Oaks. The site block plan also indicates that the existing leylandii hedge to this boundary would be removed.

8. Even if any door opening to serve the garage within the north-east side elevation was of a solid nature with no glazed elements, it would encourage activity in very close proximity to the boundary with Anvil Oaks. There is no evidence before me to indicate that there would be sufficient space within the appeal site to provide replacement screening. In combination, these factors mean that there would be a potential increase in the likelihood of occupiers of Mistra standing on or immediately next to this section of the boundary with views towards the front elevation and immediate garden area serving Anvil Oaks. This would result in a loss of privacy when compared with the existing situation.

9. The appellant contends that the existing garage has benefited from a pedestrian door onto the path at the side of the house, that the use of such a door would only be occasional and that the neighbour does not object to a standard inward opening unglazed door. However, the frequency of use could not be reasonably controlled and I must have regard to the privacy of occupiers of Anvil Oaks in the longer term including any future occupants. Furthermore, given the tapered alignment of the boundary and the greater gap between the side elevation of the existing garage, it is not comparable to the tighter site constraints relative to the north-east side elevation of the proposed garage.

10. The appellant accepts the remaining requirements of Condition 6 insofar as it relates to the approved side elevation windows and also prevents any additional windows being formed in the north-east elevation of the dwelling. From the evidence before me and from what I saw on site in terms of the relationship with the adjoining property at Anvil Oaks, I find no reason to reach a different conclusion.

11. I conclude that it has not been demonstrated that the variation of condition 6 to allow for a door opening in the north-east side elevation of the garage could

be undertaken without harm to the living conditions of the occupiers of Anvil Oaks with particular regard to privacy. In that regard and in all other respects condition 6 is reasonable and necessary and complies with the requirements which seek to protect residential amenity in Policy DC 1 (Design Considerations) of the Staffordshire Moorlands Local Plan (2020) and the Framework.

Other Matters

12. The appellant contends that the new garage is only sited in close proximity to the boundary with Anvil Oaks as a previous application for a detached garage was refused by the Council. Whether or not this is the case, this does not overcome my findings under the main issue.

Conclusion

13. For the reasons given, the appeal is dismissed.

M Russell

INSPECTOR