
Delegated report Officer: Christina Farrer

Application ref. DMPA/2019/0905

The variation of condition no.4 (regarding the rooflights being non-opening) of planning permission ref. 9/2016/1172 dated 22/12/2016 for the erection of a rear extension, replacement garage and alterations at 35 Trent Avenue, Willington, Derby, DE65 6DN

Valid date: 02/08/2019

Consults expired: 10/09/2019

EIA development?

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

9/2016/1172 Erection of a rear extension, replacement garage and alterations. Conditionally approved 22/12/2016.

Responses to consultations and publicity

None received.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1: S2, SD1, SD3, BNE1, BNE4, INF2
- 2017 Local Plan Part 2: H27, BNE5, BNE7

The relevant local guidance is:

- Design Guide Supplementary Planning Document (SPD)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

Planning considerations

Taking into account the application made, the documents submitted and the site and its environs; the main issue central to the determination of this application is:

- The amenity of neighbours;

Planning assessment

Planning permission was granted in 2016 for the erection of an extension at the rear this detached bungalow along with a garage and alterations. The approved rear extension included a first floor mezzanine area served by a rear facing window (in the rear facing gable) and 4 high level rooflights (2 on each side of the roof slope). The permission included 3 conditions which have been complied with (i.e. Commence the development within 3 years, the development to be in accordance with the

approved plans and the the use of matching external materials,). The permission also includes Condition 4 which states:

'Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any statutory instrument amending, revoking and/or replacing that Order; all of the rooflights hereby approved, serving the mezzanine space shall be glazed in obscure glass and permanently maintained thereafter as such.

Reason: To avoid overlooking of adjoining property in the interest of protecting privacy.'

The planning officer's report stated that the 'Plans also show the creation of a loft space and this, by virtue of the roof lights, will cause some overlooking of the adjacent gardens. Fixed obscure units will remove that concern and in dialogue with the agent, he is happy to proceed on that basis. The rear window in that space will provide some outlook without such detriment. Any views from the slightly altered ground floor layout are not materially different to those that exist already.'

The extension is now complete with the mezzanine in use as a study/office space. The 4 rooflights are obscure glazed as required by the condition but they have the capability to be opened, and the current owner wished to be able to open them if required for ventilation purposes He has explained that this generally involves the opening of just one rooflight on each side (i.e. 2 in total) in warm weather to allow a cross flow of air.

The rooflights as proposed have no alternative visual impact to those previously considered and approved. The key consideration is whether the rooflights when open have a material impact on the amenity of neighbours in terms of overlooking/privacy. Policies SD1, BNE1 and H27 seek to protect the privacy and amenity of existing and future occupiers, with specific 'Distance Guidance' contained within the Design SPD.

Having carried out a site visit it is apparent that an average height adult cannot obtain any views into neighbours' rear or side windows or into neighbouring rear gardens unless they were to get right up to the opened rooflight and peer downwards. Any usual use of the room would not result in any such views. In any event the Design Guide does not seek to protect privacy in relation to proposed or existing side windows at neighbouring dwellings and the 4 rooflights are akin to side windows. Indeed side window would have a far greater privacy impact. It is considered acceptable for the rooflights to be opened, as required rather than being restricted as non opening by condition.

The rooflights are currently obscure glazed as per the requirements of Condition 4 and the application does not seek the removal of this part of the condition and the applicant has confirmed that he has no intention to change them. Notwithstanding this it could be argued that it is not necessary for the rooflights to be obscure glazed as the main view out, unless one is right up against the glass and trying to look down, is of the sky and the Design Guide does not seek to control 'side' windows . However, neighbours perception of privacy being harmed (rather than the absolute reality) can be a material planning consideration and it is likely that the obscure nature of the glass that has now been in situ for some time does afford neighbours the feeling of privacy more so than any future clear glass would. Whilst any perceptions of a loss of privacy when the rooflights are ajar is a transitory thing (i.e. unlikely to be open many ours every day) the rooflights glass type could be viewed at any time during daylight hours. To stop neighbours' potentially established daily perception of privacy being reduced, and as neighbours have not be notified of any potential change to the existing obscure glazing through this current application, it is considered necessary, reasonable and appropriate to still require the rooflights to remain obscure glazed by condition. The previous condition can be amended to reflect this.

Other issues

The previous conditions regarding commencing the approved development within 3 years and using matching external materials do not need to be attached to any new permission given that the development is complete in the required material types. A reworded condition should, however,

reference the originally approved plans for the avoidance of doubt in terms of the development plans that this new permission relates to.

Recommendation

Approve

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	25/09/2019
Report agreed:	26/09/2019
Authorised officer:	Tony Sylvester
