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## Appeal Decision

Site visit made on 10 April 2025

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

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Appeal Ref: APP/V2255/W/25/3358878

89 London Road, Teynham, Kent ME9 9QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
  - The appeal is made by Ms Desiree Yeo against Swale Borough Council.
  - The application Ref 24/503051/FULL was approved on 23 October 2024 and planning permission was granted subject to conditions.
  - The development permitted is Conversion of existing basement into a habitable space, alterations to front elevation to provide new entrance and replacement first floor front bathroom window.
  - The conditions in dispute are Conditions 2, 3 and 4 which state that:
    - Condition 2: *"The materials to be used in the construction of the external surfaces of the proposal hereby permitted shall match those on the existing building in terms of type, colour and texture."*
    - Condition 3: *"The development hereby approved shall be carried out in accordance with the following approved drawing: RA1684/REV F/01."*
    - Condition 4: *"The first floor window to the front elevation as shown on drawing RA1684/REV F/01 shall remain obscure glazed at all times and this window shall be incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and shall subsequently be maintained as such"*
  - The reasons given for the conditions are:
    - Reason 2: *"In the interests of visual amenity"*
    - Reason 3: *"For the avoidance of doubt and in the interests of proper planning."*
    - Reason 4: *To prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers"*
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### Decision

1. The appeal is allowed and planning permission 24/503051/FULL for conversion of existing basement into a habitable space, alterations to front elevation to provide new entrance and replacement first floor front bathroom window at 89 London Road, Teynham, Kent ME9 9QL is varied by deleting condition 4.

### Preliminary Matter

2. My decision above sets out that I am allowing the appeal. However, in this case, and despite the terminology that the appeal is allowed, this does not mean that I have concluded that disputed conditions 2 and 3 should not be imposed. This is because, in an appeal of this type, where disputed conditions are retained, but another condition is deleted, the appeal is allowed.

**Background and Main Issues**

3. Planning permission was granted for conversion of existing basement into a habitable space, alterations to front elevation to provide new entrance and replacement first floor front bathroom window. The permission included condition 2 requiring the proposed materials to match those on the existing building; condition 3 requiring the proposal to be constructed in accordance with the submitted drawings; and condition 4 requiring that a first floor window be obscure glazed.
4. The main issues are whether the conditions are reasonable and necessary having regard to the effect on character and appearance and the living conditions of nearby residential occupiers.

**Reasons***Condition 3 – approved plans*

5. The appeal property is a two storey building fronting London Road. It shares architectural unity with the adjoining property, 87 London Road (No. 87). Both properties have similar windows at ground and first floor levels, and utilise matching external materials throughout their front elevations.
6. The appellant wishes to revert to the design indicated within the drawing (Ref: RA1684/REV D/01), initially submitted with the planning application and which features the removal of a ground floor window and replacement with an area of decorative brickwork, installation of a timber gate and creation of a courtyard transition area.
7. Despite the intention to install decorative brickwork and additional planting, the removal of ground floor windows and the replacement with brickwork and a timber gate would create a large, blank façade with no set back from the public highway. Given the regular pattern of windows on the ground floors of properties on London Road this would be an incongruous and harmful feature within the street scene.
8. Whilst there may be examples of other timber gates in the local area, these generally provide side access to external amenity areas rather than primary access into dwellings. As a result, the timber gate would be an uncharacteristic feature.
9. It follows that condition 3 is reasonable and necessary with regard to the effect of the proposal on visual amenity. The condition accords with Policies CP4, DM14 and DM16 of Bearing Fruits 2031 – the Swale Borough Local Plan (2017) (Local Plan). Collectively, these policies require that proposals retain and enhance features which contribute to local character and distinctiveness.

*Condition 2 – matching materials*

10. The existing permission is subject to a condition which specifies that the materials used must match with those used on the existing building.
11. Removal of the condition would enable the use of materials which would not match the host property. As the host property and its immediate neighbour No. 87 have a similar design with similar external materials, the use of alternative and contrasting elevational materials could be overly prominent and harm the character and appearance of the area.

12. I therefore find that condition 2 is reasonable and necessary with regard to the effect of the proposal on visual amenity in accordance with the aims of policies CP4, DM14 and DM16 of the Local Plan.

*Condition 4 - living conditions*

13. The Council indicate that Condition 4, which requires the first floor window to be obscure glazed with a high level fanlight opening at least 1.7m in height, was included in error. They therefore advise that they do not contest the removal of the condition.
14. From my observations on site, the window, which would look onto the busy London Road, would not have a harmful effect on the privacy of neighbouring occupiers.
15. Accordingly, I conclude that condition 4 is not reasonable or necessary to achieve to prevent overlooking of adjoining properties and to safeguard the privacy of neighbouring occupiers. Thus, the removal of the condition would not conflict with policies DM14 and DM16 of the Local Plan, insofar as they require that proposals protect residential amenity.

**Other Matters**

16. The appeal site is located within Air Quality Management Area 5, which the Council has identified to be an area below national air quality objectives. The appellant indicates that heavy traffic on London Road causes poor air quality and dusty air.
17. I am sympathetic to the appellant's concerns about air quality. I recognise the desire to introduce measures to reduce the dusty air entering the appeal property, thereby improving indoor air quality. However, it has not been shown that this cannot be achieved in another way, which may involve less external alterations. On the basis that an alternative could deliver similar benefits for the appellant, this does not outweigh the harm that I have found to the character and appearance of the host dwelling and surrounding area.

**Conclusion**

18. For the reasons I have given, conditions 2 and 3 in dispute are reasonable, relevant to the development permitted and necessary. As a result, they should be imposed. However, I have found that condition 4 is not reasonable or necessary. I conclude that the appeal should be allowed, and the planning permission varied by deleting disputed condition 4.

*B Pattison*

INSPECTOR