
Appeal Decision

Site visit made on 5 December 2016

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 December 2016

Appeal Ref: APP/Z3635/W/16/3157687

35 Avondale Avenue, Staines Upon Thames, TW18 2PL

- 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 Jonathan Ward against the decision of Spelthorne Borough Council.
 - The application Ref 15/01620/HOU, dated 27 November 2015, was approved on 1 March 2016 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a single storey rear extension and enlarged conservatory; erection of new roof with higher ridge height and 6 side facing dormers to provide accommodation in the roof space.
 - The condition in dispute is No 3 which states that: *"Prior to occupation of the development hereby permitted the dormer windows on the northern and southern elevations shall be obscure glazed and be non-opening to a minimum height of 1.7m above internal floor level in accordance with details/samples of the type of glazing pattern to be submitted to and approved in writing by the Local Planning Authority. These windows shall thereafter be permanently retained as installed"*.
 - The reason given for the condition is: *"To safeguard the privacy of the adjoining property(ies) in accordance with policies SP6 and EN1 of the Spelthorne Borough Core Strategy and Policies Development Plan Document 2009"*.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant makes it clear in the appeal documents that he wishes to be able to install fully opening windows (subject to some restriction on the direction of opening) in the proposed dormers but does not object to having obscure glazing. The development was under way at the time of my site visit with the preliminary roof structure and dormers partly formed. At my site visit I was able to view the neighbouring properties from the partly constructed first floor at the appeal site.

Main Issue

3. The main issue in this appeal is whether the condition is necessary and reasonable in order to protect the privacy of neighbours.

Reasons

4. The dormers would face directly over the neighbouring properties which are both sited a short distance from the appeal property. The neighbouring property to the north, No 33, has been the subject of a similar roof extension

as that which is under way at the appeal site. No 33 has side facing dormers with obscure glazed windows facing No 35.

5. From the first floor level at the appeal site I was able to observe that some views are possible into the garden at No 37, although much of the view is of the single storey extension to that property. On the northern side views are possible into the rear garden of No 33; I could also see the dormer windows within the roof of the neighbouring property at close quarters.
6. There is some discussion in the appeal papers regarding the dormers at No 33 and it is evident that the windows are open-able for the full height but on one side so that views are less likely to be possible of the gardens. The Council states that this is contrary to a condition attached to the relevant planning permission which is similar to the disputed one in this appeal. That permission was granted in 2004 and it would appear that the Council has not taken any action in this respect and so I am regarding the window arrangement at No 33 as a permanent feature.
7. I consider that it is necessary to protect the privacy of residents at No 37 when in their garden area and so some restriction of views from the first floor of the appeal site is necessary. Obscure glazing would go some way to achieving this but I am mindful of the possibility of opening such a window and so gain views. On the southern side of the first floor at the appeal site, the dormers would serve an en-suite bathroom, a further bathroom and, at the front, a second window to a bedroom. In relation to the effects of the existing restrictions imposed by the disputed condition on the occupiers of No 35, I consider that the use of the bathrooms would not be compromised in any way by the existing condition. In relation to the bedroom, the main outlook would be provided by the front facing window and the obscure glazed side window would be secondary. Again, my view is that the restriction as it currently exists would not compromise the use or enjoyment of this bedroom. Therefore, in order to protect the privacy of residents at No 33, I consider that the existing condition is necessary, justified and reasonable.
8. In relation to the northern side of the appeal site the dormers would serve bedrooms with 2 as secondary windows. The possibility of views of the garden and also of views into open windows at No 33 means to me that the restrictions within condition 3 are necessary and reasonable. Without the restriction on the opening areas it would be possible to gain some views of the garden and also into open windows at No 33. Therefore, in order to protect the privacy of residents at No 33 the existing condition is necessary, reasonable and justified.

Conclusion

9. As a result of my considerations, I conclude that the existing condition is necessary in order to protect the privacy of neighbours. Therefore, the appeal is dismissed.

S T Wood

INSPECTOR