

Appeal Decision

Site visit made on 22 February 2017

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

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

Decision date: **21st March 2017**

Appeal Ref: APP/K3605/D/17/3167139

53 Winchester Road, Walton-On-Thames, KT12 2RH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr J Pine against the decision of Elmbridge Borough Council
 - The application Ref 2016/1957, dated 12 June 2016, was refused by notice dated 25 November 2016.
 - The application sought planning permission for a first floor side extension and part two storey / part first floor extension without complying with Condition 4 attached to planning permission Ref 2015/0155, dated 29 May 2015
 - The condition in dispute is No 4 which states that: *The first floor windows on the side elevations (including the high level window in the angled rear elevation) of the development hereby permitted shall be glazed with obscure glass and fitted with non-opening principal lights, and subsequently maintained in this form. Such glass shall be sufficiently obscure to prevent loss of privacy. The affixing of an obscure film will not be sufficient.*
 - The reason given for the condition is: *To preserve the reasonable privacy of neighbouring residents in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015.*
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Decision

1. For the reasons given below I allow the appeal, and vary the planning permission Ref 2015/0155, dated 29 May 2015, for a first floor side extension and part two storey / part first floor extension at 53 Winchester Road, Walton-On-Thames, KT12 2RH, deleting condition 4 and substituting for it the following condition:
 - 1) *The first floor windows on the side elevations (excluding the high level window in the angled rear elevation facing west) of the development hereby permitted shall be glazed with obscure glass and fitted with non-opening principal lights, and subsequently maintained in this form. Such glass shall be sufficiently obscure to prevent loss of privacy. The affixing of an obscure film will not be sufficient.*

Main issue

2. From the material submitted it is evident that the two first floor windows in the extension facing towards 51 Winchester Road are the subject of the appeal application. In view of this the main issue is whether the two first floor bedroom windows in the extension that face towards the south western
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boundary need to be fitted with obscure glass and with non-opening principal lights in order to protect the privacy of the occupiers of 51 Winchester Road.

Reasons

3. The extension has been completed and the two windows in question are fitted with clear glazing.
4. The smaller window is unlikely to give rise to unacceptable levels of overlooking given that it is at a high level and is set at an angle to the boundary with 51 Winchester Road. Consequently there is insufficient justification for requiring this window to be obscure glazed and non-opening. However from the larger window, which is at the normal height above floor-level, it is possible to look directly over the rear garden of no. 51. The limited distance between this window and the boundary means that the privacy of the occupiers of no. 51 at the rear of their property is reduced to a significant extent. This is in conflict with *Policy DM2: Design and Amenity* of the *Elmbridge Development Management Plan 2015* which seeks to preserve the reasonable privacy of neighbouring residents. Although the proposed planting and existing vegetation along the boundary may provide some screening during the summer months its future retention cannot be guaranteed.
5. I conclude, therefore, that the first floor bedroom window facing towards the south western boundary needs to be fitted with obscure-glazing and made non-opening in order to protect the privacy of the occupiers of 51 Winchester Road. I also conclude that there is no need for the smaller window in the angled rear elevation facing west to be obscure glazed or non-opening. These findings mean that Condition 4 should be amended accordingly. None of the other matters raised outweigh the considerations that have led to my decision.

Christopher Anstey

Inspector