
Appeal Decision

Site visit made on 2 May 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 6 June 2017

Appeal Ref: APP/P3610/W/17/3168119

Glenwood, 6a Grosvenor Road, Epsom KT18 6JQ

- 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 Ms Brooke Sanders against the decision of Epsom & Ewell Borough Council.
 - The application Ref 16/01042/REM, dated 14 October 2016, was approved on 2 December 2016 and planning permission was granted subject to conditions.
 - The development permitted is variation of Condition 3 (approved drawings) of planning permission 15/01493/FLH to permit the enlargement of the rear dormers.
 - The condition in dispute is No 3 which states that: *"The rooflights in the front roofslope of the development hereby permitted shall be glazed with obscure glass of no less than obscurity level 3 and permanently fixed shut, unless the parts of the rooflights which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall thereafter be permanently retained as such"*.
 - The reason given for the condition is: *"To safeguard the privacy of the occupants of adjoining properties in accordance with Policy DM10 of the Development Management Policies 2015"*.
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Decision

1. The appeal is allowed and the planning permission Ref 16/01042/REM for the variation of Condition 3 (approved drawings) of planning permission 15/01493/FLH to permit the enlargement of the rear dormers at Glenwood, 6a Grosvenor Road, Epsom KT18 6JQ granted by Epsom & Ewell Borough Council on 2 December 2016, is varied by deleting condition No 3.

Preliminary Matters

2. Alterations to the existing roof to create accommodation within the roofspace have taken place. I was able to view the outlook from the two front rooflights at my visit.

Background and Main Issue

3. The original planning permission for the alterations to the existing roof to create accommodation within the roofspace was granted planning permission on 15 March 2016 and did not include a restrictive condition relating to the front rooflights. A revised application, including the enlargement of the rear dormers, was granted and included a new Condition 3. It is that condition that is now the subject of this appeal.
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4. Both rooflights have been fitted with clear glass and open below 1.7 metre above the floor level of the bedrooms. The appellant wishes to retain the rooflights as installed as they provide light and a sense of airiness to the two first floor bedrooms. It is also considered that the opening rooflights would provide both ventilation in hot weather and a secondary means of escape in the event of a fire. For these reasons the appellant seeks the removal of the condition.
5. The main issue is whether Condition 3 is reasonable or necessary with particular regard to the living conditions of occupiers of the adjoining properties.

Reasons

6. The appeal property is one of three dwellings in this location that are positioned to the rear of existing road fronting residential development. The Council has commented that previous concern has been raised by the occupiers of Nos 8 and 10a relating to overlooking and for this reason considers the condition necessary in the interests of privacy.
7. I saw that adjoining properties can be observed when standing next to, and looking directly out from, the rooflights. However, such observation is not readily achievable from further within the bedrooms.
8. No 8 has a long rear garden. The relationship of the appeal property is in close proximity to the end of the garden and the rooflights would enable outlook toward the garden and the dwelling. However, No 8 has a row of tall deciduous trees along its rear boundary. This shields the rear garden and the dwelling from being observed from the first floor bedrooms of the appeal property. This, in my opinion, prevents harmful overlooking from occurring.
9. No 10a is located behind the existing road frontage properties and has an oblique siting to the side and front of the appeal property. The rooflight nearest No 10a enables an oblique outlook toward the rear of the property. I observed that in order to gain any clear view of the rear windows of No 10a and its patio, it is necessary to stand within very close proximity to the rooflight in the east most bedroom. Views would only be available to those of a comparable height to the level of the windows.
10. Moreover, whilst it is possible that such overlooking could take place from time-to-time, such views are not readily available and need to be actively sought. Therefore I do not consider this will be a regular occurrence from the normal day-to-day use of the roofspace. For these reasons the windows have not lead to unacceptable harm to the living conditions of the occupiers of No 10a. This is reflected by the lack of any objection to the application or appeal.
11. I conclude that the condition is not reasonable or necessary in the interests of the living conditions of adjoining occupiers. Policy DM10 of the Epsom & Ewell Borough Council Development Management Policies Document 2015 seeks to have regard to the amenities of occupiers and neighbours in respect of privacy and outlook, amongst other matters. The development without this condition would not adversely affect the living conditions of the adjoining occupiers. As such the overall aim of Policy DM10 would not be compromised.

12. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

Nicola Davies

INSPECTOR