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## Appeal Decision

Site visit made on 4 October 2021

**by Baljit K Muston BA(Hons) PGDip MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 October 2021.**

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**Appeal Ref: APP/P3610/D/21/3278057**

**42 Longdown Lane North, Ewell KT17 3JQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Jonathon Graham against the decision of Epsom & Ewell Borough Council.
  - The application Ref 21/00299/COND, dated 22 February 2021, sought approval of details pursuant to condition No 3 of a planning permission Ref 18/00960/FLH, granted on 19 December 2018.
  - The application was refused by notice dated 20 April 2021.
  - The development proposed is the *"Replacement of original single glazed windows with double glazed windows. Continual condensation on the original single glazed windows is causing them to rot and a mould is developing on the windows and casings causing a health risk to property occupants and visitors."*
  - The details for which approval is sought relate to external materials. .
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### Decision

1. The appeal is allowed and the details of external materials submitted pursuant to condition No 3, attached to planning permission Ref 18/00960/FLH, granted on 19 December 2018, in accordance with the application dated 22 February 2021, and the details submitted with it, are approved.

### Main Issue

2. The Council's refusal of this application did not set out reasons for refusal, but instead contained informatives. Informative 1 says that the submitted details cannot be discharged *"due to failure to use the appropriate material for the replacement windows as approved in the original planning consent"*. This approach was explained in Informative 2, which states that *"the application for discharge of conditions is not acceptable as the proposal was to replace the original windows and condition 3 states that "the development hereby permitted shall be constructed entirely of the materials that match in colour and appearance those of the existing windows."* This Informative concludes by saying that *"these uPVC windows would not match original windows and therefore not acceptable"*.
3. However, it is clear from the original 2018 decision notice that Condition 3 of permission Ref 18/00960/FLH is in fact as follows: *"Prior to the commencement of development, details and samples of the external materials to be used for the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with*

*the approved details.” The reason is given as “to secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM9 and DM10 of the Development Management Policies 2015”. The condition does not require the replacement windows to be constructed in materials that match the existing windows, and there is therefore no procedural reason why the submitted details cannot be discharged.*

4. The appeal site is within the Higher Green Conservation Area and permission is required for the replacement of windows on the front elevation of the appeal property because of an Article 4 Direction taking away some permitted development rights. The main issue in this appeal is therefore whether the development preserves or enhances the character or appearance of the Higher Green Conservation Area.

### **Reasons**

5. The Conservation Area (CA) comprises a residential suburb, developed from the late 1920s onwards. The houses retain elements taken from the historic buildings of Surrey, with steeply pitched tiled roofs, tiled and timber-framed decoration, leaded light windows, and a variety of front doors and porches.
6. The appellant has pointed out in his grounds of appeal that permission was granted in 2016 for replacement uPVC windows at 51 Higher Green. I was able to see these on my site visit. I also observed that a large number of properties within the CA have replacement uPVC windows in their front elevations. They mostly include leaded lights within those windows, which assists in their looking in keeping with other houses in the CA, where the original windows are retained.
7. The proposed windows would have leaded lights within the uPVC frames, in common with many other houses in the CA. As a result, the proposed replacement windows would not look out of keeping in the CA. I conclude that the proposal preserves the character and appearance of the Higher Green Conservation Area, and would comply with Policy CS5 of the Core Strategy (2007) and Policies DM9 and DM10 of the Development Management Policies (2015). These policies, amongst other things, seek to protect and enhance the Borough’s conservation areas, and expect development proposals to respect typical details, building materials and design detailing of elevations.

### **Conditions**

8. The Council has suggested that I impose the standard time condition and a condition requiring the development to be carried out in accordance with the approved plans. However, these were included in the original December 2018 permission and do not need repeating here. A condition that the materials to be used match the external surfaces of the existing building is also not appropriate, as the proposed materials match those used in other houses within the CA, rather than those on the appeal property.

### **Conclusion**

9. For the reasons given above, I conclude that the appeal should be allowed and the details of external materials approved.

*Baljit K Muston* INSPECTOR