



Appeal Decision

Site visit made on 2 August 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2022.

Appeal Ref: APP/K3605/W/22/3294851

Land adjacent to 21/21A Castlevue Road, Weybridge KT13 9AB

- 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 Simon Merchant of Pendragon Property Developments Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2021/3680, dated 21 October 2021, was refused by notice dated 4 March 2022.
 - The application sought planning permission for a detached single-storey house with rooms in the roof space and dormer window, new access and associated parking and landscaping, without complying with a condition attached to planning permission Ref 2018/3358, dated 20 June 2019.
 - The condition in dispute is number 2 which specifies that the development hereby permitted shall be carried out in strict accordance with the following list of approved plans: L01, P03, P04 and P06 received on 8th November 2018, P01 Rev A, P02 Rev A received on 1st April 2019.
 - The reason given for the condition is to ensure the development is carried out in a satisfactory manner.
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Decision

1. The appeal is allowed and planning permission is granted for a detached single-storey house with rooms in the roof space and dormer window, new access and associated parking and landscaping, at 21/21A Castlevue Road, Weybridge KT13 9AB, without complying with condition 2 previously attached to planning permission Ref 2018/2258, dated 20 June 2019, but subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Planning permission reference 2018/3358 has been granted and at the time of my site visit the development was substantially complete but did not appear to be occupied. The development does not accord with the previously approved plans in that an external dormer has been constructed to the rear, rather than the internal dormer balcony which was previously approved. Application reference 2021/3680, which is the subject of this appeal, seeks to vary Condition 2 of the original permission by substituting amended drawings¹ to address this. Therefore, the appeal has been dealt with under S73A of the Act. Accordingly, I shall consider only the question of the conditions subject to

¹ Previously approved drawings reference P01 Rev A and P02 Rev A would be substituted with amended drawings reference P01 Rev B and P02 rev B.

which planning permission was granted and will not undertake a complete re-consideration of the original application.

Main Issue

3. The main issue is the effect of the proposed rear dormer window, as set out in the amended drawings, on the character and appearance of the host dwelling and the surrounding area.

Reasons

4. The site comprises a narrow fronted, triangular plot of land at the end of a residential cul-de-sac. The dwellings in the street are of varied scale and design.
5. The dormer window for which permission is sought is to the rear of the property and not visible from the street. Therefore, regardless of whether there are other rear dormers nearby, the proposed amended dormer window has no detrimental impact on the streetscene or the character and appearance of the wider area.
6. The proposed dormer is of a modest scale, proportionate in size to the dwelling and does not overly dominate the roof slope within which it sits. Unlike the main roof, which is hipped, the dormer has a flat roof, but this reflects the flat roof of the single storey section of the dwelling which sits beneath it. The dormer is central within the roof, which is a more appropriate design than following the vertical lines of other windows and doors, which in this case are offset from the centre. The clean and simple design reflects that of the dwelling and the use of hung tiles on the dormer sides helps to integrate it within the roof.
7. I conclude that the proposed development would not cause significant harm to the character and appearance of the host dwelling or the surrounding area. Consequently, the development would comply with Policy DM2 of the Elmbridge Local Plan Development Management Plan 2015 and Policies CS4 and CS17 of the Elmbridge Core Strategy 2011 which together, amongst other things, seek to ensure that development is well designed and takes account of local character. The proposed development would also comply with Paragraphs 126, 130 and 134 of the National Planning Policy Framework which seek to secure well designed places.

Other Matters

8. The concern of neighbours regarding overlooking from the amended window is noted. However, the previously approved development included a window and an internal balcony in the rear elevation which would have allowed overlooking of neighbouring properties. Having assessed the development as built, I consider that the overlooking afforded by the amended window is not significantly different to that which would have been possible from the previously approved scheme. The angles and distances between the proposed amended window and neighbouring properties are sufficient to maintain acceptable levels of neighbour privacy in this urban setting. In this regard I agree with the Council. Regardless of any discussions which may have taken place during the committee, the Council have not included loss of privacy in their reason for refusal.

9. I note the photo provided which shows a person leaning out of the window opening. Having looked at the configuration of the windows now they are fully installed, such leaning out would be restricted by the opening mechanism, with the window hinge being located on the outer side. It is assumed that the photograph was taken during installation and does not change the consideration set out above.
10. The application seeks permission for a development which varies from the original and which has already been implemented. Whilst I acknowledge the frustration of neighbours, planning legislation allows for such applications to be made and subsequently judged on the basis of their individual merits.

Conditions

11. This appeal grants a new planning permission. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73A should also restate the conditions imposed on earlier permissions that continue to have effect. As I do not have sufficient information about the current status of some of the conditions originally imposed, I shall reimpose all those conditions that I consider to remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
12. As the external walls and roof have already been substantially completed, it is not necessary to impose a condition requiring commencement within a set period or to specify the materials. The Council have not suggested the re-imposition of the landscaping condition. As most elements related to landscaping, as set out on the approved drawings, seem to have been implemented, I agree that it is not necessary to re-impose the landscaping condition.
13. It is necessary to specify the amended list of approved drawings as this provides certainty and defines the permission. Obscure glazing in the side windows is necessary to ensure neighbouring privacy is maintained, given the proximity of the development to the boundary and the difference in site levels. It remains necessary to ensure implementation of biodiversity mitigation. Due to the size and shape of the site and its relationship to neighbouring dwellings, it is necessary and reasonable to remove permitted development rights for extensions and alterations, to protect the amenity of neighbours and future occupants.

Conclusion

14. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed. I will grant a new planning permission with the original condition 2 substituted, and now becoming condition 1. I will reimpose the undisputed conditions, where they remain reasonable and necessary.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: LO1, P01 Rev B, P02 Rev B, P03, P04 and P06.
- 2) The windows on the side elevations, including rooflights, of the development hereby permitted, shall be glazed with obscure glass that accords with level three obscurity as shown on the Pilkington textured glass privacy levels (other glass suppliers are available) and only openable above a height of 1.7m above the internal floor level of the room to which it serves. The windows shall be permanently retained in that condition thereafter.
- 3) The development shall be carried out in accordance with the conclusions and recommendations in Preliminary Ecological Appraisal including any biodiversity enhancements by Ecology Co-op Environmental Consultants dated April 2017.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the dwelling shall not be enlarged, improved or altered and shall not be enlarged through additions or alterations to the roof.

***** End of Conditions *****