



Appeal Decision

Site visit made on 11 March 2022

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24th August 2022

Appeal Ref: APP/Y3615/W/21/3288076

32 Queen Eleanors Road, Guildford GU2 7SL

- 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 W Gong against the decision of Guildford Borough Council.
 - The application Ref 21/P/02055, dated 29 September 2021, was approved on 30 November 2021 and planning permission was granted subject to conditions.
 - The development permitted is Variation of Condition 2 (plans) relating to Planning Application 17/P/01885 allowed at Appeal on 09/05/2018, including changes to fenestration, and the addition of solar panels and 2 light tubes.
 - The condition in dispute is No. 3, which states that the rooflights on the main dwelling which serve the loft room in the East and West elevations of the development hereby approved shall be glazed with obscure glass and permanently fixed shut, unless the parts of the windows 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 reasons given for the condition is in the interests of residential amenity and privacy
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Decision

1. The appeal is allowed and the planning permission Ref 21/P/02055 for Variation of Condition 2 (plans) relating to Planning Application 17/P/01885 allowed at Appeal on 09/05/2018, including changes to fenestration, and the addition of solar panels and 2 light tubes at 32 Queen Eleanors Road, Guildford GU2 7SL granted on 30 November 2021 by Guildford Borough Council, is varied by deleting condition 3.

Procedural Matters

2. I have also dealt with other appeals on this site, (Ref: APP/Y3615/W/21/3281892 and APP/Y3615/W/21/3284335). Those appeals are the subject of separate decisions.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary in the interests of the living conditions of neighbouring occupiers at Nos. 30 and 34 Queen Eleanors Road, with regards to privacy.

Reasons

4. The appeal site comprises a two storey detached dwelling on Queen Eleanors Road. It neighbours No. 30 to the west, a detached bungalow, and No. 34 to the east, a two storey detached dwelling.

5. Planning permission was granted at the site subject to numerous conditions, including that the rooflights on the east and west elevations of the appeal property would be fitted with obscured glazing and permanently fixed shut, unless more than 1.7 metres above the floor. This was in the interests of residential amenity and privacy. The rooflights have now been fitted.
6. The properties are situated close together, with little separation distance between the respective side elevations. As such, it is possible that a degree of overlooking of the neighbouring dwellings could occur from unobscured rooflights on the eastern and western sides of the roof slope at the property.
7. However, there are no windows on the facing elevation of No. 34 at this level, such that views in this direction from the rooflights at the appeal property would not look directly into habitable rooms. In addition, the height and angle of the rooflights relative to the neighbouring bungalow at No. 30 would also ensure no direct views into habitable rooms at this dwelling. As such, occupiers of these properties would not have their enjoyment of habitable rooms impacted by the proposal as there would be no loss of privacy.
8. Views from the unobstructed rooflights towards the rear amenity spaces of Nos. 30 and 34 would be possible but largely peripheral. In any event, even when looking in the direction of the neighbouring rear gardens, due to the angles of the rooflights the views of these spaces would not be clear or direct. As such, an overall limited level of actual and perceived overlooking of these spaces would result such that the privacy of neighbouring occupiers would not be unduly harmed.
9. Accordingly, the removal of the requirement for the rooflights at the property to be obscured would not result in unacceptable harm to neighbouring occupiers by way of overlooking. As such, condition 3 is neither reasonable or necessary in the interests of the living conditions of the occupiers of Nos. 30 and 34 Queen Eleanors Road, with regards to privacy.

Other Matters

10. I note that the appellant has sought the removal of the condition in the interests of light and ventilation, and that these are already adequately provided by the other windows at the property. I further acknowledge that it is unlikely the disputed condition would be applicable to the rooflight above the staircase, given its distance from the floor. Nevertheless, I still consider that the condition is neither necessary or reasonable in the interests of residential amenity and privacy of neighbouring occupiers.

Conclusion

11. For the reasons given above, the appeal is allowed, and the planning permission is varied by deleting condition 3.

C Rafferty

INSPECTOR