



Appeal Decision

Site visit made on 12th April 2023

by Megan Thomas K.C.

an Inspector appointed by the Secretary of State

Decision date: 26 April 2023

Appeal Ref: APP/M3645/W/22/3307109

26 Stuart Road, Warlingham, Surrey CR6 9JH

- 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 Matthew Hodge against the decision of Tandridge District Council.
 - The application Ref. TA/2022/242, dated 16 February 2022, was approved on 22 July 2022 and planning permission was granted subject to conditions.
 - The development permitted is the enlargement of the roof from hip to gable and insertion of a window to the flank elevation.
 - The condition in dispute is No.2 which states that: "The flank window shown in the west elevation serving the en-suite bathroom as per approved plan Proposed plans 002 revision B shall be installed within 3 months of the date of this decision notice and fitted with obscure glass and shall be non-opening unless the part(s) of the window which can be opened is/are more than 1.7m above the floor of the room in which the window is installed and shall be permanently maintained as such."
 - The reason given for the condition is: To protect the amenities and privacy of occupiers of adjoining properties in accordance with Policy CSP18 of the Tandridge District Core Strategy 2008 and Policy DP7 of the Tandridge Local Plan Part 2 – Detailed Policies 2014.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal relates to the detailed design of a flank window in the western flank elevation of a dwelling located at the appeal site. The development of the hip to gable roof including the insertion of a west flank window has already taken place. The plan approved pursuant to condition 1 of the planning permission was "Proposed plans 002 revision B, submitted and scanned 11.07.22". This showed the window would be made up of three panes, two vertical panes and one horizontal fanlight above. Condition 2 of the planning permission was as set out in the banner heading above, namely that the flank window would be fitted with obscured glazing and non-opening for any portion above 1.7m above the floor level of the room it serves.

3. Development has taken place but the west flank elevation opening consists of a window with two vertical elements, each of which can be opened. The glass is obscured.

Main Issue

4. The main issue in the appeal is the effect of the window as existing on the living conditions of the occupants of 25 Stuart Road in respect of privacy and overlooking.

Reasons

5. No.26 Stuart Road is a detached bungalow with rooms in the roof. It is located on the northern side of Stuart Road in the urban area of Warlingham. The site slopes up steeply from the highway to the principal elevation and again at the rear. Other residential properties are situated on the same side of the road with a railway line to the south.
6. No.25 Stuart Road is the immediately adjoining dwelling to the west. It is also a bungalow with rooms in the roof. The main flank walls are located close to one another. No.25 has a sunroom with three sides glazed, which is situated roughly in the centre of the front elevation. To its east there is another habitable room with a shallow rectangular bay window. There is a front terrace in front of the bay window and to the east side of the sunroom.
7. Owing to the short separation distance between the flank window at no.26 and the sunroom at no.25 there are clear views into the sunroom from the window when one or both of the window lights are open. The views are also predominantly direct views. There are also wide (and closer) views of the front terrace at no.25. Given that the sunroom and front terrace face south and given the comparatively reduced sunlight reaching the rear amenity space of no.25, I conclude that the sunroom and front terrace would be well used by existing and future occupants of no.25. The use of those spaces, however, would be compromised by the actual and perceived loss of privacy that would occur when one or both of the flank window lights at no.25 were open. I have borne in mind the obscured glass but this does not prevent overlooking or the perception of being overlooked when the window(s) is open.
8. My site visit confirmed these findings.
9. Condition no.2 is reasonable and necessary in order to prevent or severely curtail a loss of privacy for the existing and future occupants of no.25.

Other Matters

10. The appellant has raised a number of factors and considerations relating, amongst other things, to the delay in time between submitting his planning application and the notice of decision. The handling of the planning application including the request by the Council for a window of the style ultimately granted is also raised by the appellant as a potential material consideration. However, whilst I have sympathy with these considerations, these are not relevant to the land-use planning merits of the appeal, which are my prime focus of consideration. The relationships between flank windows at the eastern end of the appeal site to its eastern neighbour and other nearby property

relationships are of limited relevance and do not lead me to conclude that the relationship with no.25 in terms of overlooking is acceptable. I have made my decision based on the particular relationship of nos 25 and 26 Stuart Road.

11. I have considered whether the alternative of leaving the existing window in place but requiring fixed non-opening panes would be an appropriate alternative. However, I conclude that, aside from the difficulties of enforcement in the short and long term, the flank window (as required by the approved plan and the terms of condition 2) which facilitates natural ventilation to the bathroom is necessary. This is my conclusion whether or not there is an alternative source of natural ventilation to the bathroom.

Conclusion

12. I conclude that condition 2 is necessary to protect the living conditions of the occupants of no.25 Stuart Road when in the sunroom or using the front terrace at no.25, with particular regard to privacy. Having taken into account all representations made, for the reasons given above, I dismiss the appeal.

Megan Thomas K.C.

INSPECTOR