



Appeal Decision

Site visit made on 18 July 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/L3625/W/23/3314258

4 Seale Hill, Reigate, Surrey RH2 8HZ

- 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 Mrs Victoria Ferrier against the decision of Reigate and Banstead Borough Council.
- The application Ref 22/01560/HHOLD, dated 8 July 2022, was approved on 28 September 2022 and planning permission was granted subject to conditions.
- The development permitted is "Single storey extensions with extended roof forms above, new dormer and rooflights, new porch and conversion of one garage internally. Associated alterations to fenestration and materials. Introduction of solar panels. Associated internal reconfiguration and external landscaping works. As amended on 26/07/2022, 02/09/2022, 06/09/2022 and on 23/09/2022."
- The condition in dispute is No. 5 which states that: *The new first floor windows in the south east side elevation of the development hereby permitted shall be glazed with obscured glass and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and shall be maintained as such at all times.*
- The reason given for the condition is: *To ensure that the development does not affect the amenity of the neighbouring property by overlooking with regard to Reigate and Banstead Development Management Plan 2019 policy DES1.*

Decision

1. The appeal is allowed and the planning permission Ref 22/01560/HHOLD for single storey extensions with extended roof forms above, new dormer and rooflights, new porch and conversion of one garage internally. Associated alterations to fenestration and materials. Introduction of solar panels. Associated internal reconfiguration and external landscaping works. As amended on 26/07/2022, 02/09/2022, 06/09/2022 and on 23/09/2022 at 4 Seale Hill, Reigate, Surrey RH2 8HZ granted on 28 September 2022 by Reigate and Banstead Borough Council, is varied by deleting condition 5.

Preliminary Matter

2. I saw on my site inspection that the approved development was being constructed. The approved development includes one new first floor window on the south-east side elevation, which is the subject of this appeal, and I saw that window had been installed with clear glass and openable windows. The appeal has been determined on this basis.

Background and Main Issue

3. Planning permission¹ was granted for extensions and alterations to the appeal property. Condition 5 was imposed to obscure glaze a new first floor window

¹ Ref 22/01560/HHOLD

and prevent it from being opened unless it would be 1.7 metres above the floor level of the room it serves, on the property's south-eastern elevation. The Council has explained in their Statement that they consider the condition is necessary to protect the privacy of the adjoining occupiers of No. 2 Seale Hill, as the window in question would face towards that property.

4. Accordingly, the main issue is whether condition 5 is reasonable and necessary to protect the living conditions of the occupiers of No. 2 Seale Hill, with particular regard to their privacy.

Reasons

5. The appeal property is a detached dwelling in a side-by-side relationship with No. 2 Seale Hill. The appeal property is positioned away from its side boundary to No. 2, with its side garden and patio area located between it and the shared boundary with No. 2. Along the shared boundary is a tall coniferous hedge, with much taller planting along and near to the boundary between the respective properties front and rear gardens. The appeal property also has an existing first floor window on its south-east elevation that is not obscure glazed and has openable windows, serving a bedroom.
6. No. 2 Seale Hill is a single storey flat roofed property, it also has a long rear extension near to its shared boundary with the appeal property, close to the aforementioned boundary hedge and planting.
7. The first-floor window in dispute serves a dressing room that is linked to an existing bedroom, that bedroom already has a clear glazed and openable first floor window on the south-eastern side of the property. I saw on my site inspection that the views out of the existing first floor window and the proposed first floor window on the south-east side of the appeal property, when looking towards No. 2 Seale Hill are not materially different, as the windows are of a similar size and very close to one another.
8. Furthermore, owing to the appeal property's separation from its side boundary, and the tall planted boundary, together with the arrangement and form of No. 2, there is no significant overlooking available from the window in question towards windows on No. 2 or of its garden area. Consequently, the new window not having obscure glazing and having openable windows is not harmful to the living conditions of the occupiers of No. 2 Seale Hill.
9. I therefore conclude that it is not reasonable and necessary for condition 5 to be imposed to protect the living conditions of the occupiers of No. 2 Seale Hill, and the proposal without condition 5 complies with Policy DES1 of the Reigate & Banstead Local Plan, Development Management Plan, adopted September 2019, which amongst other things, requires new development to provide an appropriate environment for existing and future occupants by not adversely impacting them by overlooking and loss of privacy.

Other Matters

10. The Council has advised that since this planning permission² was granted, a non-material amendment³ was approved by them on 1 February 2023 relating to ground floor fenestration changes, and that condition 6 (tree protection

² Ref. 22/01560/HHOLD

³ Ref. 22/01560/NMAMD1

plan) has been discharged.⁴ As this appeal is against condition 5 only and does not create a new planning permission, it is not necessary for me to alter the already imposed conditions. The existing planning permission⁵, non-material amendment approval⁶, discharge of condition approval⁷ and this appeal decision are to be read together.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed and the planning permission is varied by deleting disputed condition 5.

A Hunter

INSPECTOR

⁴ Ref. 22/01560/DET06

⁵ Ref. 22/01560/HHOLD

⁶ Ref. 22/01560/NMAMD1

⁷ Ref. 22/01560/DET06