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# Appeal Decision

Site visit made on 20 November 2023

**by Mr C J Tivey BSc (Hons) BPI MRTPI**

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

**Decision date: 06.12.2023**

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**Appeal Ref: APP/Y3615/D/23/3329250**  
**54 Cline Road, Guildford, Surrey GU1 3NH**

- 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 the subject of which a previous planning permission was granted.
- The appeal is made by Mrs Tania Brown against the decision of Guildford Borough Council.
- The application Ref 22/P/02002, dated 26 November 2022, was refused by notice dated 20 June 2023.
- The application sought planning permission for a single storey rear extension together with single storey outbuilding and associated excavation works without complying with conditions attached to planning permission Ref. 14/P/00588, dated 18 June 2014.
- The conditions in dispute are nos. 2 and 4 which state:
  - 2. The development hereby approved shall be carried out in accordance with plans and additional information received on 31/03/2014; and
  - 4. The roof area of the outbuilding hereby permitted, as shown on the approved drawings, shall not be used as a balcony, roof garden or amenity area.
- The reasons given for the conditions are:
  - 2. To ensure that the development is carried out in accordance with the approved plans, and in accordance with policy G1 of the Guildford Borough Local Plan 2003 (as saved by CLG Direction dated 24/9/07); and
  - 4. To safeguard the residential amenities of neighbouring properties. In accordance with the following policy number(s), G1 (3) and H8 of the Guildford Borough Local Plan 2003 (as saved by the CLG Direction on 24/09/07) and the requirements of the NPPF.

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## Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension together with single storey outbuilding and associated excavation works at 54 Cline Road, Guildford, Surrey GU1 3NH in accordance with the application Ref. 22/P/02002, dated 26 November 2022 without complying with conditions no2 and no4 as set out in planning Ref. 14/P/00588 granted on 18 June 2014 by Guildford Borough Council, but otherwise subject to the following conditions overleaf:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 6306 (location plan), FIVE Rev 7 received 31st March 2014 and 54GU13NH9A REV 4, 54GU13NH8A REV 4, GU13NH2A REV 2 received 28th November 2022.
2. The materials to be used in the construction of external surfaces of the development hereby permitted shall match those used in the existing building.

### **Preliminary Matters**

2. As set out above, planning permission was granted in 2014 for a single storey rear extension together with a single storey outbuilding and associated excavation works which at the time were deemed to be part retrospective in nature. That planning permission was granted subject to 4no conditions: No 1 being the standard time limit for implementation, nos 2 and 4 as described above and no 3 ensuring that all new works and works of making good to the retained fabric were to be finished to resemble in size, colour, texture and profile those of the existing building.
3. There are a number of key differences between the extant scheme and the proposal that is before me: in terms of the layout of the part subterranean ground floor extension and the omission of the majority of a pitched roof feature across the front half of it, where abutting the rear elevation of the host dwelling at first floor level.
4. The pitched roof element is now proposed to be truncated such that only a small section would be constructed on the north western boundary shared with 52 Cline Road, in order to maintain a degree of separation between the usable area of flat roof as external amenity space and the closest first floor window serving the adjoining property. Condition no4 of planning permission 14/P/00588 only prohibited the roof area of the outbuilding i.e. the eastern element of the proposal adjacent to 56 Cline Road from being used as an external amenity area, not the roof area of the single storey rear extension.

### **Main Issue**

5. The main issue is whether the non-compliance with condition nos2 and 4 of planning permission 14/P/00588 would protect the living conditions of the occupants of 52 and 56 Cline Road in respect of privacy.

### **Reasons**

6. The appeal proposal comprises a ground floor flat roof extension and outbuilding built into the steeply sloping rear garden of the appeal site. No 52 has a first floor bedroom window in quite close proximity to the extension and there is scope for reasonably direct views into this, with views to its furthest first floor window and its ground floor windows being more oblique.
7. As I noted above, condition 4 of the extant planning permission only prevented the roof area of the outbuilding from being used as a balcony, roof garden or amenity area not that of the flat roof house extension. Therefore, whilst I accept that the proposal before me would allow a greater area of roof to be utilised as external amenity space, bearing in mind the proposed provision of a small section of pitched roof to be constructed on the shared boundary with no 52, I consider that the opportunities for overlooking and consequent loss of

privacy would not be materially different to the fall-back position, ie. the 2014 planning permission.

8. Due to the terraced and sloping nature of the rear gardens within the immediate vicinity, a degree of mutual overlooking already occurs between them and I consider that in respect of the effects of the proposal upon the occupants of no 52 this would not be significantly worsened.
9. The western boundary shared with no 56 is predominantly demarcated by both timber screening and vegetation and, therefore, views into its rear garden are minimal. Furthermore, due to the tighter angle, views from the flat roof of the outbuilding to habitable room windows of that neighbouring property are very oblique and consequently I consider that no material loss of privacy to the occupants of no56 would ensue from the revised scheme.
10. I therefore consider that the proposal would not give rise to a material loss of privacy to the occupants of either neighbouring properties and that it complies with Policy D5 of the Guildford Borough Local Plan Development Management Policies 2023 which requires development proposals to avoid having an unacceptable impact on the living environment of existing residential properties in terms of, amongst other things, privacy and overlooking.

### **Other Matters**

11. As the proposal is located within a Conservation Area I have had special regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Council explains that given the minimal visibility and overall scope of visual alterations proposed, they consider that the development would not result in any adverse impacts to the character of the Conservation Area and I have been given no substantive reason to come to a different opinion on this. Therefore, I find that the proposal would, at the very least, preserve the character and appearance of the Charlotteville and Warren Road Conservation Area; and no harm would be caused to a designated heritage asset.

### **Conditions**

12. I have had regard to the conditions suggested by the Council and bearing in mind that the scheme has already been implemented, it is not necessary to impose the standard time limit condition. For the avoidance of doubt, I include a revised wording of condition no 2 to incorporate the amended plans and I consider it necessary to ensure that materials to be employed match those used on the existing building, in the interests of the character and appearance of the area. However, I have found there to be no demonstrable harm from the use of the outbuilding's roof area as an external amenity space, therefore I have not re-imposed condition no4 of planning permission 14/P/00588.

### **Conclusion**

13. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should succeed and I grant a new planning permission with conditions as set out above.

*C J Tivey* INSPECTOR