



Appeal Decision

Site visit made on 25 October 2023

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal Ref: APP/K3605/D/23/3325391

10 The Island, Thames Ditton, Surrey, KT7 0SH.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by S. Mitchell against the decision of Elmbridge Borough Council.
 - The application Ref 2023/0256, dated 13 January 2023, was refused by notice dated 21 April 2023.
 - The application sought planning permission for single-storey front and side extensions and roof extension incorporating rooms in the roof space, following partial demolition of existing house without complying with conditions attached to planning permission Ref 2021/2188, dated 13 October 2021.
 - The conditions in dispute are Nos 2 and 4 which state that: *2. The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: P_001, 002, 111, 121, 122, 221, 222, 223, 311 received on 23/06/2021 and P_224 received on 09/07/2021; and,*
 - *4. Prior to the first occupation of the development hereby permitted the ground and first floor windows on the north-west and south-east side elevations of the development hereby permitted shall be glazed with obscure glass that accords with level three obscurity as shown on Pilkington textured glass privacy levels (other glass suppliers are available) and only openable above the height of 1.7 m above internal floor level of the room to which it serves. The windows will be permanently retained in that condition thereafter.*
 - The reasons given for the conditions are: *2. To ensure that the development is carried out in a satisfactory manner; and,*
 - *4. To preserve the reasonable privacy of neighbouring residents in accordance with Policy DM2 of the Elmbridge Development Management Plan.*
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Decision

The appeal is allowed and planning permission is granted for single-storey front and side extensions and roof extension incorporating rooms in the roof space. Following demolition of existing house at 10 The Island, Thames Ditton, Surrey, KT7 0SH in accordance with the application Ref 2021/2188, dated 13 October 2021, without compliance with condition numbers 2 and 4 previously imposed on planning permission Ref 2021/2188, dated 13 October 2021 and subject to the following conditions:

- 1) The development hereby permitted shall be carried out in strict accordance with the following list of approved plans, 2102-S73A_001, 101 and 201.
- 2) The development shall not be erected other than in the following materials: slim format brick slips at ground floor level, ebony oil-stained timber

cladding to mansard roof, single ply membrane to flat roof sections and PCC aluminium heritage style doors and windows.

- 3) The development permitted by this planning permission shall only be carried out in accordance with the approved details set out in the flood risk assessment (FRA) prepared by Herrington Consulting Limited received by the council on 7 October 2021, and the mitigation measures detailed within the FRA. The mitigation measures shall be fully implemented prior to occupation.
- 4) The development shall be carried out in accordance with the conclusions and recommendations in the Bat Activity Surveys report, including biodiversity enhancements, by Crossman Associates dated 8 June 2021.

Main Issue

1. I consider the main issue to be the effect of the proposal on the living conditions of the occupiers of number 9 The Island in respect of potential overlooking and loss of privacy.

Reasons

2. The appeal property, 10 The Island is a recently extended and altered detached chalet. It is located between two neighbouring dwellings and faces the Thames. The development approved by the Council has been commenced but not yet fully completed.
3. The appellant proposes, along with amendments to the layout, relatively minor alterations to the fenestration of the building. The Council found the alterations to have an acceptable relationship with the host dwelling and the prevailing local character. From what I have seen and read I would concur with the Council's findings in this respect.
4. The appellant also proposes that, as identified on the application drawings certain of the windows in the flank elevations should be clear glazed and not obscure glazed. The Council's concerns in respect of this change however related only to the first-floor window overlooking number 9 on the south-east side.
5. From what I observed on site I concur with the Council's finding in respect of the windows in the north-west elevation and the ground floor windows in the south-east façade being acceptable.
6. The first-floor window, overlooking number 9, while serving a landing area is situated above a staircase well with only a very narrow window board that would provide access for cleaning and maintenance only. Accordingly, unlike say a bedroom, living room or even a large landing area there would be no opportunity for people to be able to stand or congregate by the window.
7. For this reason, and while having regard to the siting/relationship of number 9, a bungalow, to number 10 and the position of the first-floor window and the private garden of number 9, I do not consider that the change in glazing to this window would lead to an unacceptable level of actual or perceived overlooking. It would therefore not result in a significant loss of privacy to the adjoining and future occupiers of number 9 The Island as suggested by the Council.

8. I therefore conclude in respect of the main issue that the proposed use of clear glazing in the windows in the flank walls of the appeal property would not cause harm to the living conditions of the occupiers of either number 9 or 11 The Island by reason of actual or perceived overlooking resulting in a loss of privacy.
9. To allow the approved windows to be clear glazed would accord with the objectives of Policy DM2-of the Elmbridge Borough Council-*Elmbridge Local Plan Development Management Plan* (Adopted April 2015), The Elmbridge Local Plan -Design and Character Supplementary Planning Document (Adopted April 2012) and the National Planning Policy Framework as they relate to, amongst other things, the protection of the living conditions of residential occupiers.

Conditions

10. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
11. Accordingly, as suggested by the Council, in addition, to a condition that specifies approved drawings to provide certainty, a condition relating to materials is necessary to assure the quality of development. Furthermore, in the interests of the protection and conservation of biodiversity and to reduce overall and local risk of flooding the development shall be carried out in accordance with the previously submitted the Bat Activity Surveys report, including all biodiversity enhancements and the mitigation measures set out in the FRA.
12. However, as the development has commenced I have omitted the standard time limit condition as this is no longer necessary.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed.

Philip Willmer

INSPECTOR