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## Appeal Decision

Site visit made on 9 July 2024

**by J Dowling BA (Hons), M.Phil, MRTPI**

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

**Decision date: 12 July 2024**

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**Appeal Ref: APP/P3610/W/24/3338154**

**54 Parkview Way, Epsom, Surrey KT19 8FF**

- 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 Ms DS Sukiennik against the decision of Epsom & Ewell Borough Council.
  - The application Ref 23/01142/FLH, dated 17 September 2023, was approved on 20 December 2023 subject to conditions.
  - The development permitted is to alter side fenestration involving insertion of new window at first floor level.
  - The condition in dispute is No 4 which states that: the proposed new window in the side elevation of the development hereby permitted shall be glazed with obscure glass of no less than obscurity level 3 and permanently fixed shut unless parts of the window/s can be opened are more than 1.7m above the floor of the room in which the window is installed and shall thereafter be permanently retained as such.
  - The reason given for the condition is: To safeguard the privacy of adjoining properties in accordance with Policy DM10 of the Development Management Policies 2015.
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### Decision

1. This appeal is allowed and the planning permission Ref 23/01142/FLH to alter side fenestration involving insertion of new window at first floor level at 54 Parkview Way, Epsom, Surrey KT19 8FF granted on 20 December 2023 by Epsom and Ewell Borough Council is varied by deleting condition 4.

### Main issue and Reasons

2. Planning permission has been granted to allow the insertion of a first-floor window in the side elevation of No 54 Parkview Way. The appeal seeks permission to carry out the development without complying with condition 4. This requires the window to be obscure glazed and fixed shut. The main issue is whether the condition is necessary to ensure the privacy of adjoining properties.
3. Policy DM10 of the Epsom and Ewell Development Management Policies Document (2015) sets out the design requirements for new developments. Amongst other things it advocates that development should have regard to the amenities of neighbours and includes a reference to privacy. The Council imposed the condition to protect the privacy of No 56.
4. The proposed new window would serve a stairwell and would enable the appellant to have views from the first floor onto her driveway, which runs between No 54 and No 56.

5. I observed on my site visit that No 56 has three windows in the ground floor side elevation which faces No 54. One window is obscure glazed and the remaining two are clear glazed. As a result, I accept that there is a pre-existing level of overlooking between the two properties.
6. The approved window would serve a stairwell and landing area which would be used by the occupiers of No 54 on a non-habitable basis. Furthermore, views out of the window would be restricted to the top of the stairs and the landing areas. These areas would be set back from the approved window which combined with the angle would, I consider, limit views out of the window. Any views of the rear garden of No 56 would be oblique and restricted to the less sensitive rear of the garden.
7. Consequently, I consider that if the approved window was clear glazed and openable it would not result in a loss of privacy to the residents of No 56. As a result, the condition would not be necessary and therefore would fail the test for conditions as set out in paragraph 56 of the National Planning Policy Framework.
8. I note that the property is in the Green Belt and within the Hospital Cluster Conservation Area. I agree with the Council's assessment that the window would not affect the openness of the Green Belt or adversely affect the character or appearance of the Conservation Area. The use of clear glazing rather than obscure glazing does not alter this conclusion.

### **Conclusion**

9. For the reasons given above and having considered all other matters raised, this appeal should be allowed.

*Jo Dowling*

INSPECTOR