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## Appeal Decision

Site visit made on 1 May 2025

**by Jennifer Wallace BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 JULY 2025

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**Appeal Ref: APP/K3605/D/24/3354855**

**7 Knowle Park, Cobham, Surrey KT11 3AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Tom Wheaton against the decision of Elmbridge Borough Council.
  - The application Ref is 2023/3060.
  - The development proposed is installation of two opening windows in the front first-floor bedroom.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. At my site visit, I observed that the development proposed had been carried out, and that an obscure film had been applied to the interior of those windows. I have determined the appeal on the basis of my observations at my site visit.

### Main Issue

3. The main issue in this appeal is the effect of the proposal on the living conditions of the occupiers of 6 Knowle Park with respect to privacy.

### Reasons

4. Planning permission was sought in 2005 for works to 7 Knowle Park, including the installation of the windows the subject of this appeal. This was granted subject to a condition that required that the windows the subject of the appeal be obscure glazed, have non-opening principal lights and be retained as such. It also specified that the affixing of an obscure film would not be sufficient.
5. The side elevation of no.7 is separated from the side elevation of 6 Knowle Park at first floor level by the width of two driveways. Both properties have a garage at ground floor, but these are of a quite compact width. No.6 has a distinctive design, with a mansard-style roof. As a result, there is a window in the first-floor side elevation of the property, facing towards no.7 which is the only window serving a bedroom. There is also a smaller first floor window with extraction equipment and a top opening light only. There appeared to be internal shutter affixed to this window.
6. At my site visit, I was able to view the operation of the windows the subject of this appeal. When opened, they did allow for a clear and unobstructed view into the bedroom window of no.6. This represents an unacceptable loss of privacy to the occupiers of no.6 due to the short distance between the properties.

7. Obscure film was installed to the interior of the windows at the time of my site visit. While this was effective in preventing views out from the property, it does not overcome the harm that arises from the loss of privacy when the windows would be open. I am also not satisfied that a condition requiring the installation and retention of an internal film would be reasonably related to planning as internal décor would not fall within the definition of development. Nor do I think such a condition would be enforceable given it relates to an internal application to a window.
8. It is not uncommon for there to be degrees of overlooking between properties in suburban residential areas. However, there is a clear and marked difference between the overlooking that exists between properties separated by spacious front gardens and the public highway, and the relationship between the windows in this case.
9. It may be that the Council has allowed other development which results in overlooking of the appellant's property. However, it is not that decision which is before me. I must assess this proposal on its own planning merits. There is a societal expectation for discretion and modesty, even when inside one's own home. However, that does not alter my assessment of the adverse effects of the development on the privacy of no.6.
10. There is no evidence before me to suggest that the window serving the bedroom on the front elevation is not capable of forming an escape window in the event of an emergency. This therefore does not justify the installation of fully opening windows on the side elevation.
11. It is not in dispute that the climate is warming. However, there are other means to address the internal climate of dwellings to meet the needs of occupiers. There is no evidence before me to show that having opening windows is the most effective means of addressing the internal temperature of the dwelling, or that other methods would not be feasible.
12. An occupier of the property has a protected characteristic as defined by the Equality Act 2010 (the Act) and adequate ventilation is important in meeting their needs. Section 149(1) of the Act requires me to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
13. This duty does not compel a particular outcome. Due regard is the regard which is appropriate in consideration of the circumstances of each particular case, and I have given careful consideration to the benefits of the windows to the occupier. However, there is insufficient evidence before me to demonstrate that there are no other options within the dwelling itself or through alternative means to meet these needs. This would not outweigh the harm that I have identified.

## **Conclusion**

14. I therefore conclude that the development results in an unacceptable loss of privacy to the occupiers of 6 Knowle Park. It is therefore contrary to Elmbridge Local Plan Development Management Plan (2015) Policy DM2 and Elmbridge Core Strategy (2011) Policy CS17 which require development to protect the

amenity of adjoining occupiers. There are no material considerations of sufficient weight, including the personal circumstances of the appellant's family and the application of the Public Sector Equality Duty, that would outweigh this harm. The appeal is therefore dismissed.

*Jennifer Wallace*

INSPECTOR