



Appeal Decision

Site visits made on 27 May and 5 June

by **JJ Packman MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 July 2025

Appeal Ref: APP/Y3940/D/25/3364220

Walhampton, Petersfinger Road, Petersfinger, Salisbury, Wiltshire, SP5 1DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 subject to which a previous planning permission was granted.
 - The appeal is made by Karen Campbell against the decision of Wiltshire Council.
 - The application Ref is PL/2024/09070.
 - The application sought planning permission for Alteration and Extension including first floor extension, demolition of garage and construction of car barn without complying with a condition attached to planning permission Ref PL/2023/02794, dated 27 June 2023.
 - The condition in dispute is No 4 which states that: 'Before the development hereby permitted is first brought into use the lower casement in the dormer window in the north west elevation shall be glazed with obscure glass only to an obscurity level of no less than level 5] and fixed shut and the windows shall be maintained with obscure glazing in perpetuity.'
 - The reasons given for the condition is: 'In the interests of residential amenity and privacy'.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Two site visits were undertaken. The first to view the appeal property from Grassmere. A second visit was arranged following the first, to view Grassmere from the appeal property. Both parties were informed of both visits.
3. Planning permission was granted for a proposal including a dormer window subject to the condition which required it be obscurely glazed and non-opening with the Council giving reasons for this relating to the privacy of people living nearby¹. An application was submitted for the removal of the condition to enable the window to be opened fully for the purposes of cleaning. The application was refused by the Council for the same reasons².
4. The main issue is therefore whether condition 4 is necessary, if so whether the proposed variation would be necessary and reasonable having regard to the test on imposing conditions set out in paragraph 57 of the National Planning Policy Framework (the Framework).

¹ Council reference PL/2023/02794

² Council reference PL/2024/09070

Reasons

5. The appeal property 'Walhampton' comprises a detached residential property situated at the intersection of Petersfinger Road and Petersfinger Cottages. Immediately to the north west of the property is Grassmere, a detached dwelling with a garden on rising land to the rear of the property.
6. The proposal is to vary condition 4 of planning permission PL/2023/02794 to allow the dormer window on the north west elevation (which serves a bedroom) to be opened for cleaning purposes only. The condition currently restricts the lower casement of the window to being obscure glazed and fixed shut.
7. Overlooking from the bottom casement at Walhampton is not possible with the window shut due to the presence of obscure glazing. Views of the rear garden of Grassmere are possible through the top casement, but only for those able to achieve a sufficiently high vantage point. These views give a good indication of the views that would be more easily achieved were it possible to open the window fully. Photographs provided by the appellant illustrate this.
8. The available views are variable, as part of the garden is obscured by Grassmere's garage and porch. However, the rising nature of the land means that people standing in the garden are more likely to be visible than those sitting down and those at the rear more likely to be seen than those close to the garage. The potential harm to amenity is not immediately apparent from Walhampton due to the topography of the garden.
9. From Grassmere the effect of the dormer window is more pronounced, with the window visible from the majority of the garden when stood up, its presence giving the perception of being surveyed. Notwithstanding this, the obscure glazing does provide effective mitigation against overlooking at present with the window closed. For people of average height, views towards Grassmere from Walhampton are currently difficult to achieve.
10. If the lower casement were openable, the adverse impact would be significant. Whilst the views from Walhampton may be variable, I consider that the increased perception of surveillance would be harmful to the amenities of the occupiers of Grassmere, impacting their ability to use and enjoy their private amenity space.
11. I note that the appellant has received advice about the difficulties of cleaning the present window. However, this concern is not sufficient to outweigh the harm I have identified. Furthermore, additional justification has been provided by the appellant after the submission of the appeal stating that the window is required as a means of escape in the event of a fire. No reason has been given as to why the dormer window on the opposite elevation is unsuitable for this purpose. It is also assumed that the newly constructed additions meet latest building regulation standards, which address fire safety. For these reasons I give this limited weight.
12. Consequently, I find conflict with policy 57 of the Wiltshire Core Strategy (CS) which requires proposals to have regard to the compatibility of adjoining buildings and uses, ensuring that appropriate levels of amenity are achievable and para. 135 of the Framework which seeks to promote a high standard of amenity for existing and future users.

I also conclude that it would be unreasonable to specify matters such as the number of times the window could be cleaned and the duration that the window could be left open for cleaning because this would be too onerous and impractical to monitor. Thus, any replacement condition which allowed the window to be fully openable only for the purposes of cleaning would not meet the relevant tests for the imposition of planning conditions because it would imprecise and unenforceable.

13. Thus, condition 4 is necessary, and the proposed variation would not meet the tests on imposing conditions set out in paragraph 57 of the Framework.

Conclusion

14. For these reasons, having had regard to all other matters raised, the appeal is dismissed.

JJ Packman

INSPECTOR