



Appeal Decision

Site visit made on 17 September 2025

by **G Ellis BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2025

Appeal Ref: APP/K3605/D/25/3369763

29 Grove Way, Esher KT10 8HQ

- 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 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 Diahann Williams against the decision of Elmbridge Borough Council.
 - The application Ref is 2025/0875.
 - The application sought planning permission to infill the opening of first-floor balcony on rear elevation and alterations to rear fenestration without complying with conditions attached to planning permission Ref 2023/1793, dated 25 August 2023.
 - 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: Location Plan, P.M.400, P.M.500 Rev A received on 27/06/2023 and P.M. 600 Rev C received on 23/08/2023.*
 - 4 - *Prior to the first occupation of the development hereby permitted the 2 window(s) on the rear elevation(s) at approx 50 degree angles to the curvature of the wall of bedroom 1 of the development hereby permitted shall be glazed with obscure glass that accords with level three obscurity as shown on the pilkington textured glass privacy levels (other glass suppliers are available) and only openable above a height of 1.7m above the internal floor level of the room to which it serves. The window shall 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.*
 - 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

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was granted under Council reference 2023/1793 for the infilling of the existing first-floor balcony with a condition requiring the two windows at approximately a 50-degree angle in the curvature of the wall to be obscurely glazed.
3. The curved rear projection with a first-floor covered balcony is an extension to the property (Council reference 2005/1592). That permission included a condition requiring a privacy screen, which both the appellant and the Council advise has not been implemented.
4. The main issue is whether the living conditions of the occupiers of the neighbouring properties (Nos. 27 and 31) would be harmed, in terms of privacy, without the provision of obscure glazing, and therefore whether the condition is necessary.

Reasons

5. Paragraph 57 of the National Planning Policy Framework (the Framework) advises that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
6. Policy DM2 of the Elmbridge Local Plan, Development Management Plan April 2005, seeks to protect the amenity of occupiers of nearby properties, including that the design of development ensures appropriate privacy. The Elmbridge Design Code provides further guidance and advises that to prevent overlooking, windows should either be high-level, obscurely glazed, or omitted from any wall directly facing a neighbouring house or garden.
7. In refusing the application for the variation of the condition, which would enable the two windows to have clear glazing, the Council's concerns are that the siting and scale of the flank windows would lead to a marked sense of overlooking and loss of privacy for neighbouring occupiers.
8. The proposed alterations would incorporate the balcony into the internal bedroom space with the windows in the façade of the building. The proposed windows were marked on the application plans as obscurely glazed and are positioned where their outlook is directed towards the neighbouring properties, including the upper part of the garden adjacent to the house.
9. As part of a row of residential properties, there is a general level of mutual overlooking of neighbours' rear gardens from upper-floor windows. However, the curved projection to the rear of the appeal property and the potential angle of view from the windows within it is more unusual. Incorporated directly as part of the bedroom and as full-height windows, I share the Council's concerns regarding overlooking, and the resultant loss and/or a perceived loss of privacy for the occupants of the neighbouring properties.
10. There are existing openings in a similar position to the windows, although these are part of the covered balcony area with the rear elevation and main glazing to the bedroom recessed and on a straight plane. From the balcony, views towards the neighbours are possible, and while noting privacy screening is not present, the depth of the balcony area behind the side openings is limited. Therefore, the potential for overlooking the neighbours for a prolonged period from sitting or standing on the balcony is likely to be limited, and the times and extent of usage would be different. There are also clear glazed windows on the sides of the projection, but these are much smaller windows and set further back.
11. As such, and whilst acknowledging the current arrangements, I do not find, as suggested by the appellant, that the proposal would be an improvement. Given the positioning, scale and angle of the view towards the neighbours, obscure glazing is necessary to protect the amenities of the occupiers of Nos. 27 and 31 in accordance with policy DM2.
12. The restrictions to the windows provided mitigation and thereby enabled the development to proceed where it would otherwise have been necessary to refuse planning permission. The bedroom would be served by five windows, including a large, full-height window to the rear. There is no specific evidence before me to

suggest that it would not receive adequate light if the two identified windows are obscurely glazed.

13. In conclusion, I find that the conditions were reasonable, necessary, and directly related to the proposed development. Therefore, the requested variations to conditions 2 and 4, which would permit clear glazing and the corresponding plan substitutions, fail, and the original conditions remain.
14. For the reasons set out, the appeal is dismissed.

G Ellis

INSPECTOR