



Appeal Decision

Site visit made on 27 January 2026

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 February 2026

Appeal Ref: APP/W4325/D/25/3376532

35 Hillside Road, West Kirby, Newton, CH48 8BD

- 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 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Claire Ridley against the decision of Wirral Metropolitan Borough Council.
 - The application Ref is RVC/25/01065.
 - The application sought planning permission for “*Additional first floor living accommodation above existing single storey bungalow with internal remodelling*” without complying with conditions attached to planning permission Ref APP/21/02368, dated 13 October 2023.
 - The conditions in dispute are:
 - No. 2 which states that: “*The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on November 15th 2022 and June 22nd 2023 and listed as follows:*
 - *Existing & Proposed Site Plans, Site Sections & Streetscene drawing no. 2021 102 300 SP000 Revision 03 dated 15-11-2022*
 - *Proposed Basement, Ground & First Floor Plans drawing no.2021 102 300 003 Revision 03 dated 15-11-2022*
 - *Proposed Elevations drawing no.2021 102 300 004 Revision 04 dated 12-10-2023.*”
 - No. 4 which states that: “*On insertion the window serving the dressing room as labelled on plan 003 Rev 03 hereby approved at first floor to the west facing rear elevation shall be fitted with fixed and obscure glazing up to a height of 1.7m from the finished first floor internal floor level and shall be permanently retained in that condition thereafter.*”
 - The reasons given for the conditions are:
 - No. 2: “*For the avoidance of doubt and to define the permission.*”
 - No. 4: “*Having regard to residential privacy and amenity.*”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The permission reference APP/21/02368 allowed for an additional storey on the existing dwelling at 35 Hillside Road, with other internal alterations and a raised rear decking area. Its condition 2 specifies the approved plans, and condition 4 requires for the first floor rear elevation dressing room window to be obscure glazed. The proposal seeks to increase the depth and width of the raised decking, and for the specified window to be fixed and clear glazed. The amendments sought are thus to amend the approved plans, and entirely remove condition 4.
3. The proposal is predominantly retrospective, with the exception of the height of the side decking privacy screen. Section 73A of the Town and Country Planning Act (1990) relates to development already carried out, including development carried out without complying with some condition subject to which planning permission

was granted, as for this appeal. An approval of a s73A application effectively creates a new planning permission, with the extant approval remaining intact.

4. The written evidence identifies that the first floor internal layout was also not constructed in accordance with the approved plans. This was evident during my visit, with a different master bedroom/en-suite layout, and the dressing room now being a separate bedroom accessed directly off the landing. These amendments, and others to the ground floor, are not shown on the plans submitted for this application/appeal. Nonetheless, internal amendments and the function of specific rooms do not always require planning control. The change from the proposed dressing room to a bedroom is part of the appellant's justification, and so I have found it most appropriate to assess the glazing issue against this 'as built' context.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy.

Reasons

6. The raised decking at the rear of the property was approved at 1.5m deep from the rear wall, 5.4m wide, and 1.4m high. The proposal extends its depth to 2.3m, and its width to 6.9m. The plans also show a 1.7m high side privacy screen of reflective glass, although as constructed this only reaches to approximately waist high.
7. There is no impact on the No. 33 Hillside Road occupants, due to the intervening garage. The wider decking allows for a close direct view into the rear garden and patio area of No. 37, but this would be very restricted once the screen height were increased to the specified 1.7m. The appellant's new side hedging will also help to block this view and the perception of overlooking. On this basis, I find there would be no harm to No. 37.
8. To the rear, the decking is only 0.8m closer to the No. 48 Burlingham Avenue boundary than approved, but its height allows for views over that fence, at a distance of only approximately 7.0m. The original justification for the decking was in part based on a pre-existing sun room which projected 2.1m from the rear elevation. As the decking now sought is both deeper and wider, this indicates a material impact on views. The cumulative footprint increase is not insignificant. It allows for more people to be present on the decking, and likely increase its overall use. Even with intervening vegetation partially blocking views, this causes the perception of overlooking and proximity.
9. The Council's Supplementary Planning Guidance House Extensions SPG11 states that balconies will not be acceptable where they would increase overlooking into neighbour's properties to an unacceptable degree, and create a feeling of being overlooked from a higher level. Overall, I find the decking to be excessive in size in relation to its impact on privacy.
10. With regard to the window glazing, the SPG11 identifies that extensions should not result in a significant loss of privacy to neighbouring properties. Where two habitable rooms to principal elevations face one another such that direct overlooking is likely to occur, windows shall be a minimum of 21.0m apart. However, where as in this instance in relation to No. 48 Burlingham Avenue, there are land level differences or different ridge and/or eaves heights between dwellings, an additional 2.0m separation distance is required for every metre

difference in ridge height. As the dressing room is now a habitable bedroom, the lack of obscure glazing breaches these required separation distances to the ground and first floor habitable room windows of No. 48.

11. I found clear views are possible into the No. 48 windows, which includes large patio doors and windows along its rear elevation. Views also encompass parts of its garden. My site visit to No. 48 confirmed this relationship. These are views which were not previously been present prior to the 2023 permission.
12. Moreover, similar views are possible from the other rear bedroom in the appeal dwelling. That window was permitted to contain clear glazing, as it is on the same established rear building line as previously existed, and it just complies with the SPG11 separation distances. As such, a single window was judged not to cause material harm. Allowing the second and slightly closer window to have clear glazing, would tip the balance into causing harm overall.
13. The proposal also does not include any rear vegetation as mitigation. However, even were I to impose this via a condition, this would likely take several years to provide effective screening at height. The existing vegetation including mature trees does assist in filtering current views, but this is primarily outside of the appellant's own control, which puts the burden on the neighbours rather than on the appellant as the agent of change. Indeed, having visited the neighbouring garden, it was clear that trees have been relatively recently planted along the border, and that this formed the only vegetation blocking some of the angle of view. I also have no certainty of the remaining lifespan of their mature trees.
14. Overall therefore, I find conditions 2 and 4 remain necessary. The proposal would cause moderate harm to the living conditions of neighbouring occupiers, with regard to privacy and the perception of overlooking. It would conflict with the LP Policies WD5 and WD23, which together and amongst other matters, require proposals to demonstrate an appropriate design having regard to the impact on amenity of neighbouring properties, and to avoid direct overlooking and loss of privacy which would be detrimental to neighbours' living conditions.

Other Matters

15. The improved internal living space and increased usability of the outdoor space is only a private benefit, which therefore only holds negligible weight.
16. However, the evidence makes reference to the bedroom being used by the appellant's son. As his age is unspecified, I have assumed that he is under 18 years old, and therefore holds age as a protected characteristic. The bedroom is also identified as being an important space for him, as he spends a significant amount of time there as a safe and calming environment. In order to make sure that I am fulfilling my statutory duties, I have taken this as an implicit reference to that individual also holding the protected characteristic of disability, notwithstanding that no specific details are provided.
17. On this basis, in exercising my function on behalf of a public authority I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010. I have considered the three equality aims set out in Section 149 of the Act, being the need to eliminate discrimination, to advance equality of opportunity, and to foster good relations. As my decision could have an adverse impact on children, rights under Article 8 of the Human Rights Act 1998 are also engaged, with their

best interests being a primary consideration. Article 8 provides that everyone has the right to respect for their family life and their home, being matters that are essential for a person to enjoy a relationship with their family.

18. The intent for the clear glazing is stated as being for the appellant's son to rely on good levels of natural daylight to feel comfortable and settled, whereby obscured glazing and a darker room would be less suitable for his needs. However, no evidence has been put forwards that the specified requirement could not be achieved by any other internal configuration of the property. The house is not cramped, such that other habitable rooms with clear glazing appear to be available for bedroom use, including one at first floor which was not currently laid out as such. As such, I find the specific proposal before me is not essential for the appellant and their children to enjoy their family life, and this reduces the weight to which I give the stated need.
19. I find that in isolation the physical structure of the decking as built does not harm the character and appearance of the host property, but this is a neutral matter.

Planning Balance

20. The proposal would cause moderate harm to the living conditions of neighbouring occupiers, to which I give moderate weight. I give minor weight to the need for the clear glazing, given the potential personal circumstances cited to which I have given due regard. The improved living space as a whole would only be a personal benefit. Overall, these benefits therefore do not justify the harm which would be caused by the proposed amendments to the approved permission conditions.
21. Dismissing the appeal would interfere with the appellant's and their family's rights to peaceful enjoyment of their possessions, and to a private and family life and home, under Article 1 of the First Protocol and Article 8 of the Human Rights Act 1998. However, those are qualified rights; interference with them in this instance would accord with the law and seek to achieve the privacy of the neighbouring occupiers, which is a well-established and legitimate aim. I have also considered the implications of my decision to dismiss the appeal on the individual with the assumed protected characteristics of age and disability, with due regard to the Public Sector Equality Duty.
22. Since there are other options available to configure the dwelling to provide a bedroom with clear glazing, there would be no violation of the appellant's or their family's human rights in dismissing this appeal. The protection of the public interest cannot be achieved by means that are less interfering with their rights.

Conclusion

23. In conclusion, the need for clear glazing due to the specified personal circumstances, does not outweigh the harm which would be caused by the proposal and its conflict with the development plan as a whole. For the reasons given above and with no other material considerations outweighing this conflict, I conclude that it is proportionate and necessary to dismiss the appeal.

L N Hughes

INSPECTOR