

2016/0365

Reg Date 19/04/2016

Town

LOCATION: 27 DIAMOND RIDGE, CAMBERLEY, GU15 4LB
PROPOSAL: Variation of condition 3 of approval 15/0686 (two storey and single storey rear extensions) to enable minor material amendments including an increase in the size of the bedroom window on the northwest first floor side elevation and addition of obscure glazing film. (Amended plan recv'd 4/5/16)
TYPE: Full Planning Application
APPLICANT: Mr & Mrs Corbett
OFFICER: Jonathan Partington

The application would normally be determined under the Council's Scheme of Delegation, however, at the request of the Executive Head of Regulatory it is being reported to the Planning Applications Committee for determination.

RECOMMENDATION: GRANT subject to conditions

1.0 SUMMARY

- 1.1 The application seeks retrospective permission for minor material amendments to the bedroom window on the first floor side elevation permitted under 15/0686. The amendments including an increase in the size of the window and addition of obscure film cause no adverse impact to residential amenities, namely no serious overlooking or loss of privacy for the owner/occupiers of no.25. The application is therefore recommended for approval subject to conditions.

2.0 SITE DESCRIPTION

- 1.1 The site is situated in a residential area of Camberley, within the Post War Council Estate Character Area, as defined in the Western Urban Area Character Supplementary Planning Document 2012 (WUAC SPD). The property is located on the eastern side of Diamond Ridge and is detached two storey dwelling with a hipped roof and single storey side garage and off-street parking.
- 1.2 The road is on a gradient and the application site is on a slightly higher level in relation to the adjoining dwelling to the north no.25. The separation distance between the main side elevation walls of no. 25 and 27 is approximately 5.8 metres. No. 25's side elevation has 2 ground floor windows and clear glazed stable door serving the kitchen/diner plus 1 window serving the downstairs toilet; and, on the first floor a total of 3 windows serving a utility room, landing and bathroom respectively. This neighbour also has a side patio area.

3.0 RELEVANT HISTORY

3.1 15/0686 Erection of two storey and single storey rear extensions

Granted 22/9/2015. Condition 3 of this consent listed the drawing numbers. This consent has been implemented.

4.0 THE PROPOSAL

- 4.1 This is a Section 73 application for the variation of condition 3 of approval 15/0686 to enable minor material amendments including an increase in the size of the bedroom window on the northwest first floor side elevation and addition of obscure glazing film. This is a retrospective application.
- 4.2 The approved plans for 15/0686 showed a side elevation bedroom window with a size of approximately 1.2 m width by 1.1 m height. By comparison the window as inserted has an enlarged width i.e. approximately 1.6 m width by 1.1 m height. In addition, the positioning of the window panes and design of the window has changed.
- 4.3 The approved plans did not verify whether it would be obscure glazed. The window as inserted is not obscure glazed but film has subsequently been added to the lower part of the window. Given that the window serves a bedroom it is a fire escape requirement of building regulations that the window is openable. The window therefore has a right sided (as viewed from outside) casement i.e. side hinged pane that swings outwards towards the front of the property and with an open view to the rear. The remainder of the window is top opening only.

5.0 CONSULTATION RESPONSES

5.1 Surrey County Highways No requirements to make.

6.0 REPRESENTATIONS

6.1 At the time of writing one letter of objection has been received from the immediate neighbour at no. 25 Diamond Ridge, summarised below:

- Object to increase in the size of the first floor side elevation window and increased overlooking and loss of privacy. The increased area of glazing and no. 27 being on higher land gives a greater angle of view into the neighbour's rooms.

[Officer comment: See paragraph 7.2.3]

- The rooms seriously impacted upon include the kitchen/diner (which has 2 windows and a clear glazed stable door) and downstairs toilet; and, on the first floor a frequently used utility room, a bathroom and landing with views across to a bedroom. There has also been a loss of privacy to the private side patio area.

[Officer comment: See paragraphs 7.2.4 and 7.2.5]

- Object to use of an obscure film of the first floor side elevation window. This film is to an unknown and unprescribed degree, with transparent borders still enabling overlooking covertly. It is no substitute for permanent glazing and would need to be replaced due to degradation/peeling. Any condition to maintain it would not be enforceable.

[Officer comment: See paragraphs 7.2.6 -7.2.8]

- Object to change in fenestration and design of the first floor side elevation window. There is now a large side opening out and overlooking the neighbour's rooms, patio and garden meaning that privacy cannot be protected by obscure glazing alone. The window should be hinged in the opposite direction to lessen intrusion of views, consistent with advice in Surrey Heath's design guidance (para. 4.1.7 of Supplementary Planning Guidance: Residential Development in Settlement Areas – Development Control Guidelines October 2002).

[Officer comment: See paragraph 7.2.9. This design guidance is a historical document written to support the superseded Surrey Heath Local Plan 2000, since replaced by the Core Strategy and Development Management Policies Document 2012. This guidance therefore carries significantly less weight but is still available on the Council's website as it contains useful design and amenity principles]

- The inserted ground floor side elevation window is not in accordance with the approved plans or this submission's plans. It is higher and therefore causes greater overlooking, particularly to the kitchen. The bottom sill of the window appeared above the existing fence and so further trellising has been added to the fence. This window should be obscure glazed or repositioned to the originally approved height.

[Officer comment: Following officer requests the agent has checked this and confirmed that the window has been positioned correctly with the height from ground floor and damp course level as shown on the approved plans]

- The approved window contravenes adopted policy and Government guidelines and the degree of intrusion is a contravention of Article 8 of the Human Rights Act.

[Officer comment: See the Human Rights Statement on page 2 of this agenda. There is considered to be no conflict with the Human Rights Act]

7.0 PLANNING CONSIDERATION

- 7.1 The National Planning Policy Framework (NPPF) and Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 (CSDMP) are relevant. Guiding principles within the Western Urban Area Character SPD 2012 (WUAC SPD) also apply.

7.1.2 By way of background, planning approval 15/0686 was deemed acceptable for the following reasons:

- The development would not be an incongruous addition to the host dwelling, not be visible from street scene and not be harmful to the character of the area.
- No adverse overbearing or overshadowing effects for the immediate neighbour's at nos. 25 and 29. For no. 25 due to the side separation distance of 2.7 metres to the boundary and a further 3.1 metres to the neighbouring dwelling house
- No adverse loss of privacy levels for neighbours. In respect of no.25 the proposed ground floor side window serving the kitchen would not result in significant overlooking, due to the separation distance to the side boundary and fencing boundary treatment
- The officer's report considered the proposed bedroom window in the first floor side elevation facing no.25 to be permitted development i.e. any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be:
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

7.1.3 However, the approved plans did not annotate the first floor bedroom window to verify it as permitted development, and no condition or informative was added to the decision notice. Consequently, the applicant commenced works in good faith by working to the approved plans and inserting a window, but not in compliance with this permitted development criteria. As explained in section 3 of this report the inserted window is not obscure-glazed (although the applicant has subsequently added the film) and is full height opening. In addition, the window is larger than shown on the approved plans and the panes are a different design.

7.1.4 This application therefore seeks to regularise these changes and so the main issue to consider with this application is the impact of this window on the residential amenities of the immediate facing neighbours i.e. no. 25 Diamond Ridge.

7.2 Impact on residential amenities

7.2.1 Paragraph 17 of the NPPF lists core planning principles to underpin decision-taking. This includes the need to ensure a good standard of amenity for all existing and future occupants of land and buildings. Policy DM9 (iii) of the CSDMP also requires developments to respect the amenities of occupiers of neighbouring property and uses.

7.2.2 The objector's concerns summarised at section 4 of this report concentrate on loss of privacy and overlooking of their side rooms and patio area, in relation to: (1) the increased size of the window; (2) the effectiveness of the obscure film; and, (3) the design of the openings. Each of these points will be considered below. The officer's site inspection included viewing from both within the neighbour's rooms affected, outside space, and the applicant's bedroom.

(1) The increased size of the window

- 7.2.3 The increase in the width of the window, by approximately 40 cm, inevitably adds to the perceived impact for the neighbours upon their privacy levels as it can be seen from all of their immediate rooms affected. However, the actual impact needs to be considered. On the ground floor the neighbour's rooms affected include a kitchen/diner (which has 2 windows and a clear glazed stable door) and downstairs toilet; and, on the first floor the immediate rooms affected include a utility room, a bathroom and landing. Of these rooms the bathroom is obscure glazed with latticing and it is considered that only the kitchen/diner is a principal habitable room. Even from standing in this kitchen/dining area it was difficult to gain full view of the window unless peering over a kitchen worktop. Given, therefore, the nature of these rooms, and given the separation distances between the dwellings of almost 6 metres it is considered that the actual impact is not sufficiently harmful to warrant refusal.
- 7.2.4 The neighbour also claims that a bedroom is affected but this is further within the neighbour's house and so in the officer's opinion there is even less of an impact on this room. Whilst the neighbour's complain that their patio area is overlooked, the patio area is in fact not visible from standing within the applicant's bedroom. Even peering out of the window it is not possible to see the patio and this is because of the angle of sight and the presence of the garage. In this respect, the larger window therefore makes no difference.
- 7.2.5 It should be further noted that permitted development rights do not restrict the size of a first floor side window. Hence, there would be nothing to preclude a significantly larger window being inserted in the side elevation if it was obscurely glazed and top opening only.

(2) The effectiveness of the obscure film

- 7.2.6 From viewing within the applicant's bedroom the obscure film was highly effective. The neighbour is concerned that the film's transparent borders still enable covert overlooking. However, this was not the case when inspected. The potential peeling and degradation of the film, and its permanence compared to actual obscure glazing, is a reasonable concern. Nevertheless, it is considered that a suitably robust condition can be imposed that requires film to remain in perpetuity and if this degrades to be replaced. In the officer's opinion such a condition would be enforceable.
- 7.2.7 The applicant has confirmed the manufacturer's details for the inserted film and this would be included in the condition. Typically manufacturers grade obscure glass from 1 -5 with grade 1 being the most transparent and affording the least privacy. The solution used by the applicant has been graded 4 by the manufacturers for two-way privacy. To ensure high privacy levels it is therefore considered that any replacement film (or glazing) under the terms of the condition must be at a minimum privacy level of 3-5 (such a stipulation would be consistent with permitted development requirements), with details submitted to the Planning Authority for approval prior to works.
- 7.2.8 In considering the reasonableness and necessity of this condition, this also has to be balanced with the fact that the applicant could still resort back to the original permission. Moreover, obscuring a bedroom window, when this is the only source of light and when this is a habitable room, is a far from ideal situation for the applicant.

(3) The design of the openings

- 7.2.9 The opened casement window does provide an open view area to the rear of the neighbour's property. Whilst this impact is not considered to be significantly adverse and only a part of the garden is visible, nevertheless, to ameliorate perceived harm it would be preferable for the window to open in the opposite direction. Whilst the window has to be openable to comply with building regulations, the applicant is, in principle, willing to switch

the hinge on the window to the opposite side. Efforts have already been made by the applicant to check the feasibility of this with the original window supplier. However, the original supplier is not prepared to change the fitting and another local window company has also advised against this. Any further updates on this will be provided at the meeting. The applicant has also advised that the only time there was need for this window to be open was to air the room following plastering and decoration. Moreover, on a regular/ daily basis only the top opener is used and there is also a bed in front of the window which prevents anyone from standing in front of it to gaze out.

8.0 ARTICLE 2(3) DEVELOPMENT MANAGEMENT PROCEDURE (AMENDMENT) ORDER 2012 WORKING IN A POSITIVE/PROACTIVE MANNER

- 8.1 In assessing this application, officers have worked with the applicant in a positive and proactive manner consistent with the requirements of paragraphs 186-187 of the NPPF.

9.0 CONCLUSION

- 9.1 In the officer's opinion the enlarged window, the obscure film and the design of the openings do not adversely impact upon the amenities of the occupants of no.25, subject to conditions. On this basis the application is recommended for approval.

10.0 RECOMMENDATION

GRANT subject to the following conditions:-

1. There shall be no variation from the following approved plans: CORBETT 3 unless the prior written approval has been obtained from the Local Planning Authority.

Reason: For the avoidance of doubt and in the interest of proper planning and as advised in ID.17a of the Planning Practice Guidance.

2. The obscure film (with a two-way privacy rate of 4 by Frostbite WFC by the Window Film Company UK Ltd) inserted on the side elevation bedroom window shall be retained in perpetuity, or any equivalent replacement film or obscure glazing with a privacy rating 3-5. Details of any replacement film or glazing shall be submitted to and approved in writing by the Planning Authority prior to insertion. In the event that inserted film degrades or becomes damaged then it shall be replaced immediately.

Reason: In the interests of the privacy levels of the owner/occupiers of no.25 Diamond Ridge and to comply with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies Document 2012.