

11th DECEMBER 2018 PLANNING COMMITTEE

6h	18/0911	Reg'd:	29.09.18	Expires:	15.12.18	Ward:	MH
Nei.	01.11.18	BVPI	NREQ	Number	10/8	On	Yes
Con.		Target		of Weeks		Target?	
Exp:				on Cttee'			
				Day:			

LOCATION: Brampton Down, West Hill Road, Woking, Surrey, GU22 7UL

PROPOSAL: Retrospective Section 73 application to vary conditions 5, 7 and 8 of PLAN/2015/1236 (Proposed part single and part two storey rear extension, loft extension, side facing dormer window, rooflights and replacement garage following demolition of existing (amended description).) relating to windows and rooflights which have not been installed in accordance with these conditions.

TYPE: Householder

APPLICANT: Mrs Kay Baldwin-Evans

OFFICER: Tanveer
Rahman

REASON FOR REFERRAL TO COMMITTEE

The decision on whether to take enforcement action falls outside the scope of delegated powers.

RECOMMENDATION

REFUSE planning permission and authorise formal enforcement proceedings.

PLANNING STATUS

- Urban Area
- Mount Hermon Conservation Area
- Thames Basin Heaths SPA Zone B (400m-5km)

SITE DESCRIPTION

West Hill Road is a sloped street and the application site is set higher than the neighbouring property to the south Bollibarn and lower than the neighbouring property to the north St Catherines.

Brampton Down is a two-storey, hipped roof, detached dwelling with accommodation its roof space. Part of the works relating to a previous planning permission PLAN/2015/1236 at the property included extending the accommodation in the roof space. In order to serve this accommodation a dormer and a roof light in the side (south) elevation, a rear dormer and three roof lights in the side (north) elevation were permitted. The application also permitted the insertion of two first floor windows in the side (north) elevation. These openings were all subject to conditions requiring them to be obscurely glazed and non-opening below a height of 1.7m from the areas they were proposed to serve. Barring the three roof lights in the side (north) elevation

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all of the other openings have been constructed however the conditions have not been complied with in full.

RELEVANT PLANNING HISTORY

- PLAN/2015/1236: Proposed part single and part two storey rear extension, loft extension, side facing dormer window, rooflights and replacement garage following demolition of existing. (amended description) - permitted 08.01.2016 subject to conditions including:

“05. The first floor and second floor level window opening within the north-facing side elevation (serving the en-suite, dressing room, bedroom and ensuite) hereby permitted shall be glazed entirely with obscure glass and non-opening unless the parts of the window(s) which can be opened are more than 1.7 metres above the finished floor level of the room(s) in which the window(s) are installed. Once installed the window(s) shall be permanently retained in that condition unless otherwise first agreed in writing by the Local Planning Authority.

Reason:

To safeguard the amenities and privacy of the adjoining properties in accordance with Policy CS21 of the Woking Core Strategy 2012.”

“07. The dormer window serving the landing in the south facing elevation hereby permitted shall be glazed entirely with obscure glass and fixed shut. Once installed the window shall be permanently retained in that condition unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To safeguard the amenities of the adjoining properties in accordance with Policy CS21 of the Woking Core Strategy 2012.”

“08. The second floor level window opening within the south-facing side elevation (serving the dressing area) hereby permitted shall be glazed entirely with obscure glass and non-opening unless the parts of the window(s) which can be opened are more than 1.7 metres above the finished floor level of the room(s) in which the window(s) are installed. Once installed the window(s) shall be permanently retained in that condition unless otherwise first agreed in writing by the Local Planning Authority.

Reason:

To safeguard the amenities and privacy of the adjoining properties in accordance with Policy CS21 of the Woking Core Strategy 2012.”

- 74/0565: EXTENSION TO DWELLING - permitted 01.08.1974.

PROPOSED DEVELOPMENT

Conditions 5, 7 and 8 of PLAN/2015/1236 require the first and second floor openings to be obscurely glazed and non-opening below a height of 1.7m from the rooms they are proposed to serve. This is to prevent unacceptable overlooking issues towards neighbouring properties. Condition 5 relates to the two first floor windows and three roof lights proposed in the side (north) elevation. Condition 7 relates to a dormer

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window proposed in the side (south) elevation. Condition 8 relates to a roof light proposed in the side (south) elevation.

Contrary to condition 5 the two first floor windows in the side (north) elevation serving an ensuite and dressing room are clear glazed with opaque film applied to them. Furthermore, they are fully openable below a height of 1.7m from the floor levels of these rooms. Contrary to condition 7 the dormer window in the side (south) elevation serving a landing is clear glazed with opaque film applied to it. However it is non-opening below a height of 1.7m from the landing. Contrary to condition 8 the roof light in the side (south) elevation serving 'Bedroom 1' is clear glazed with opaque film applied to it. Furthermore, it is fully openable below a height of 1.7m from the floor levels of this room. This retrospective application proposes to retain these windows and roof light as they have been built rather than to change them to be in accordance with the conditions.

(Case Officer's note: As previously mentioned the three roof lights approved in the side (north) elevation have not been inserted.)

CONSULTATIONS

None.

NEIGHBOUR REPRESENTATIONS

One letter of objection was received which made the following main statements:

- The film applied to the windows does not afford the same level of privacy as the obscure glazing required by condition. This has created overlooking issues towards the objector's house and garden.
- The applicant should be made to comply with these conditions as soon as possible as the windows have been installed for a "*considerable period of time*".

RELEVANT PLANNING POLICIES

Planning (Listed Buildings and Conservation Areas) Act 1990:

Section 72 - General duty as respects conservation areas in exercise of planning functions

National Planning Policy Framework (2018):

Section 12 - Achieving well-designed places

Section 13 - Conserving and enhancing the historic environment

Woking Core Strategy (2012):

CS20 - Heritage and Conservation

CS21 - Design

Development Management Policies DPD (2016):

DM20 - Heritage Assets and their settings

Supplementary Planning Documents

The Heritage of Woking (2000)

Woking Design SPD (2015)

Outlook, Amenity, Privacy and Daylight (2008)

Parking Standards (2018)

PLANNING ISSUES

The main issues to consider in determining this application is the impact on character, impact on neighbouring amenity and the expediency of enforcement action having regard to the relevant policies of the Development Plan.

Impact on character

1. It is considered that alterations to the two north elevation first floor windows and south elevation roof light which relate to the openings being lower and covered in opaque film rather than being obscurely glazed, the alteration of the south dormer relating to it being covered in opaque film rather than being obscurely glazed as well as the omission of the three north elevation roof lights are relatively minor in terms of their impact on the character of the host dwelling.
2. The application is therefore considered to have an acceptable impact on the character of the host dwelling and to preserve the character of the Conservation Area. This accords with Section 72 of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, Policies CS20 and CS21 of the *Woking Core Strategy (2012)*, Policy DM20 of the *Development Management Policies Development Plan Document (2016)*, Sections 12 and 13 of the *National Planning Policy Framework (2018)* and *The Heritage of Woking (2000)*.
3. The lack of an objection to the application on these grounds does not outweigh other objections to the development.

Impact on neighbouring amenity

4. As the two first floor windows in the side (north) elevation are fully openable below a height of 1.7m from the rooms they serve it is considered that they create unacceptable overlooking issues towards the rear conservatory and rear garden of St Catherines to the north. Even if they were non-opening below a height of 1.7m it is considered that the opaque film on them could still create unacceptable overlooking issues as they could be easily removed from the clear glazing. It is noted that a recent inspector's decision (A3655/W/17/3191566) allowed opaque film on a first floor window facing a neighbouring property's garden and rear elevation. However the inspector made the point that given the relationship between the properties there would be mutual overlooking without the film and it was therefore likely that the film would be retained as it would protect the privacy of the occupiers of the appeal site as well that of the neighbouring property. However it is considered that the relationship the two first floor north elevation windows at Brampton Down and St Catherines is very different. These two windows provide angled views towards the rear conservatory and rear garden of St Catherines but from above and behind them. It is considered that it is likely that the occupiers of Brampton Down would look down towards St Catherines but unlikely that the occupiers would look behind and above back towards these windows so it is considered that there would not be mutual overlooking. It is therefore considered that the two first floor windows create unacceptable overlooking issues towards St Catherines.
5. The openable glazing elements of the dormer window in the side (south) elevation are more than 1.7m above the floor level of the landing that they serve. However it is considered that the opaque film on the non-opening elements can easily be removed. Again the recent inspector's decision (A3655/W/17/3191566) is noted however it is considered that the relationship between the dormer

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window at Brampton Down and Bollibarn to the south is very different. Brampton Down is higher than Bollibarn and its dormer is just 5m from the side boundary with Bollibarn and 12m from its side (north) elevation which contains a number of windows which appear to serve habitable rooms. It is therefore considered that if the opaque film is removed the dormer would create unacceptable overlooking towards the side alleyway and side (north) elevation windows at Bollibarn but that Bollibarn would not create unacceptable overlooking issues towards the dormer at Brampton Down so it is considered that there would not be mutual overlooking. It is therefore considered that the dormer creates unacceptable overlooking issues towards Bollibarn.

6. As the roof light in the side (south) elevation is fully openable below a height of 1.7m from the floor level of the room it serves it is considered that it creates unacceptable overlooking issues towards the side alleyway and side (north) elevation windows at Bollibarn. Even if it was non-opening below a height of 1.7m it is considered that the opaque film on them could still create unacceptable overlooking issues as they could be easily removed from the clear glazing. Again A3655/W/17/3191566 is noted however it is considered that the relationship between this roof light and Bollibarn to the south is very different. Brampton Down is higher than Bollibarn and this roof light is just 6.8m from the side boundary with Bollibarn and just over 13.8m from Bollibarn's side (north) elevation which contains a number of windows which appear to serve habitable rooms. It is therefore considered that if the opaque film is removed the dormer would create unacceptable overlooking towards the side alleyway and side (north) elevation windows at Bollibarn but that Bollibarn would not create unacceptable overlooking issues towards the dormer at Brampton Down so it is considered that there would not be mutual overlooking. It is therefore considered that the roof light creates unacceptable overlooking issues towards Bollibarn.
7. For these reasons the development is considered to have an unacceptable impact on neighbouring amenity which is contrary Policy CS21 of the *Working Core Strategy* (2012), Sections 12 and 13 of the *National Planning Policy Framework* (2018) and *Outlook, Amenity, Privacy and Daylight* (2008).

Expediency of enforcement action

8. It appears to the Local Planning Authority that the development constitutes a breach of planning control. It is considered expedient to issue an Enforcement Notice, having regard to the provisions of the Development Plan, and to any other material considerations, because of the harm to the amenity of neighbouring residential properties.

CONCLUSION

9. The two first floor windows in the side (north) elevation are fully openable below a height of 1.7m from the rooms they serve. This creates unacceptable overlooking issues towards the rear conservatory and rear garden of St Catherines to the north. The elements of the side (south) dormer window which are below a height of 1.7m from the landing that it serves are not clear glazed with an opaque film applied to them which is easily be removed. This would create unacceptable overlooking towards the side alleyway and side (north) elevation windows at Bollibarn to the south. The roof light in the side (south) elevation is fully openable below a height of 1.7m from the floor level of the room it serves. This creates unacceptable overlooking towards the side alleyway and side (north) elevation windows at Bollibarn to the south. This development is

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therefore contrary to Policy CS21 of the *Woking Core Strategy* (2012), Sections 12 and 13 of the *National Planning Policy Framework* (2018) and *Outlook, Amenity, Privacy and Daylight* (2008).

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BACKGROUND PAPERS

Site visit photographs (15.10.2018 and 26.10.2018)

RECOMMENDATION

It is recommended that planning permission be **refused** for the following reason:

1. The two first floor windows in the side (north) elevation are fully openable below a height of 1.7m from the rooms they serve. This creates unacceptable overlooking issues towards the rear conservatory and rear garden of St Catherines to the north. The elements of the side (south) dormer window which are below a height of 1.7m from the landing that its serves are not clear glazed with an opaque film applied to them which is easily be removed. This would create unacceptable overlooking towards the side alleyway and side (north) elevation windows at Bollibarn to the south. The roof light in the side (south) elevation is fully openable below a height of 1.7m from the floor level of the room it serves. This creates unacceptable overlooking towards the side alleyway and side (north) elevation windows at Bollibarn to the south. This development is therefore contrary to Policy CS21 of the *Woking Core Strategy* (2012), Sections 12 and 13 of the *National Planning Policy Framework* (2018) and *Outlook, Amenity, Privacy and Daylight* (2008).

It is further recommended:

- a) That the Head of Legal Services be instructed to issue a Breach of Condition Notice requiring compliance with Conditions 5, 7 and 8 of PLAN/2015/1236 within two months of the Notice taking effect.

Informatives

01. The drawings relating to this decision are:

- 1:1250 location plan and 1:200 proposed block Drwg no. HA/1716/3 (received by the LPA on 22.08.2018)
- 1:100 proposed plans and elevations Drwg no. HA/1716/1 (received by the LPA on 26.09.2018)