
Site Address:	6 Kings Road, Emsworth, PO10 7HN		
Proposal:	Variation of Conditions 4(i) and 4(ii) of Planning Permission APP/13/01150 to allow changes to fenestration at first floor level.		
Application No:	APP/14/00322	Expiry Date:	20/05/2014
Applicant:	Mr Campbell	Team:	Team 2
Agent:	Mr Jay	Case Officer:	Tina Pickup
	The Planning Service		
Ward:	Emsworth		

Recommendation: **REFUSE PERMISSION**

1 Site Description

6 Kings Road was originally a bungalow and is currently undergoing extensive refurbishments and extensions granted under APP/13/01150. There is currently a scaffold supported tarpaulin canopy above the property which is being re-roofed and it is a 'building site' ie not currently habitable.

The property is located on the south side of Kings Road, to the east of the junction with Beach Road, with a semi-detached bungalow, nos 4, to its west. The area to the west and south is characterised by lower density residential development having relatively spacious rear gardens. Nos 4 has an irregular shaped garden which partly wraps to the rear of the application site with low hedging forming the boundary. In comparison, immediately to the east, is a terrace of older style dwellings at a much higher density having long narrow rear gardens.

2 Planning History

APP/13/01150 - Erection of two storey rear extension following removal of existing conservatory. Conditional permission 24/1/2014

3 Proposal

This application is submitted as a variation of condition 4 of 13/01150 application, seeking to carry out the development without complying with both parts of condition 4 i.e. to install clear glass into windows shown as W19 and W24 on the submitted plan. The actual condition imposed on 13/001150 states:

"4/ Notwithstanding Condition 3, the windows at first floor level in the side elevations of the development hereby approved shall:

(i) consist of at least two lights divided horizontally with only the top light capable of being opened, and shall be maintained in that condition at all times; [and]

ii) at all times be and remain glazed entirely with obscure glass, the particular type of which glass shall provide a degree of obscuration no less obscure than that which is provided by Pilkington's Texture Glass Obscuration Level 4.

Reason: In the interests of the amenities of the occupiers of nearby properties and having due regard to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012."

4 Policy Considerations

National Policies
NPPF

Core Strategies 2011 forming part of the HBLDF
CS16 (High Quality Design)

and The Havant Bourough Design Guide, 2011

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

None

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 6

Number of site notices: At least one site notice exists - check the number.

Statutory advertisement: Not applicable.

Number of representations received: 3

Summary: W24 overlooks side sitting room/dining room window and patio area adversely affecting privacy; extensions already overlook southern rear part of garden, don't want private patio area overlooked too; only low hedge on boundary; window should be obscure glass and non-opening to preserve privacy (photos supplied)

Reason given for application on form confusing, condition not imposed for applicants benefit but for neighbours; no boundary screening trees; skylights should be obscure glazed and fixed to secure privacy from overlooking; being overlooked and knowledge that can be seen cause impact to enjoyment of garden and affect value of house; original conditions should remain (photos supplied)

Mass of development already an intrusion and clear glass will only benefit applicant but has no regard to neighbours privacy

Comment: These issues will be considered below but value of house not a material planning consideration

7 Planning Considerations

- 7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Reason for the condition, wording and clarification on which windows
- (iii) Impact on neighbouring amenities

(i) Principle of development

The site lies within the urban area where the principle of development is acceptable, subject to policy and development control considerations.

(ii) Reason for the condition, wording and clarification on which windows

The original application was considered at Committee and Members undertook a site visit, including viewing the proposal from the neighbours gardens, considering the impact of the proposed development on the amenity of neighbours. As a result condition 4 was imposed requiring the side windows in the development to be both divided horizontally with only the top light capable of being opened; and obscure glazed to level 4. This was to prevent overlooking to the private sitting out areas of the neighbours at nos 4 and 6 Kings Road.

However, the precise wording of part (i) has been applied in error - the wording used relates to traditional windows with top lights and not roof lights. The intention of the condition had been to ensure the roof lights were non-opening, to prevent views out when open.

Condition 4 relates to the side windows within the development under consideration at that time ie those within the rear extension, shown now as windows W19 and W24. However W20 is within the original roof slope and could have been added under permitted development rights if it fulfilled all the criteria within Class B. One of the conditions of Class B is that

*"(c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse shall 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 "*

This window W20 does not meet these requirements - it is lower than 1.7m, is openable and has been installed with clear glass. Since this side roof light was not specifically included within the description of the development then it did not form part of the previous proposal. The previous committee report at para 7.9 specifically noted the conditions under which the roof lights within the existing dwelling could be considered as permitted development and as such were not part of that application. Window 20 is therefore currently unauthorised, not benefiting from either permission 13/01150 or permitted development.

Therefore this application relates to windows 19 and 24 only. Window 20 is unauthorised; windows 21, 22 and 23 are in the original part of the front and rear roof slope and are therefore acceptable as permitted development.

(iii) Impact on neighbouring amenities

Windows 19 and 24 are located within the rear bedroom. A full application for Building Regulations (14/00858/FP) has been submitted and approved for these extensions.

The cross section plans submitted with this indicate that the internal height of the roof light is only 1.2m above the internal floor with the top of the roof light set at 1.7m. At the time of my site visit on 1/5/14 the opening for these two windows had been created in the roof timbers, but no window or frames yet installed. The openings heights did seem to concur with this, they were fairly low and would certainly allow for clear vision out by an average height person if clear glass or opening. The openings were covered with a waterproof membrane so views out at that time were impossible. However, windows 20, 22 and 23 were all installed with clear glass and opening frames. I did not see window 21.

The location of windows 19 and 24 in the side elevation of the rear projection, is such that they are beyond the rear elevation of the adjacent properties giving views of private sitting out patio areas. The western boundary with nos 4 is a beech hedge which is fairly low and provides no screening from a side window at first floor level in the roof slope. The eastern boundary includes a blockwork wall of approximately 2m in height which screens the single storey side elevation but not the roof which is visible above the wall. There are no existing trees on this boundary as alleged on the submitted plans. The height of the roof light within the roof slope would enable views across the top of the wall and directly into the rear garden area of nos 8. The resultant loss of privacy and sense of being overlooked by the presence of clear glazed and opening windows, by both neighbours is likely to be quite significant and would adversely affect the amenity of the occupiers of these adjacent properties.

Since the internal height of the two roof lights is relatively low this enables easy vision out. This would result in direct overlooking and loss of privacy to both the occupiers of nos 4 and 8, and would have a detrimental impact on their enjoyment of their gardens and residential amenity, contrary to policy CS16 clause e) and should be refused.

It is considered that these two roof lights, if they remain, should be both obscure glazed and permanently non-opening. This is the only solution that would adequately protect the residential amenity of the occupiers of the adjacent properties. Similarly, the currently unlawful window W20 needs to be made both obscure glazed and non-opening to comply with permitted development rights.

8 Conclusion

The proposed variation of condition 4 is unacceptable and should be refused. To vary the condition and allow clear glazed, opening windows in W19 and W24 would result in a direct loss of privacy to neighbours contrary to policy CS16.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **REFUSE PERMISSION** for application APP/14/00322

(A)

(B) for the following reasons

- 1 The variation of condition 4 (i) and 4 (ii) would enable the installation of openable, clear glazed windows in position W19 and W24 as shown on the submitted plans. The use of clear glass and openable roof lights in these positions in the side elevation of the rear roof slope, would give rise to direct overlooking of both adjacent properties, numbers 4 and 8 Kings Road, to the detriment of the amenities of the occupants of these properties. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.