
Site Address:	6 Kings Road, Emsworth, PO10 7HN		
Proposal:	Retention of en-suite bathroom rooflight in east side roofslope at first floor level, including use of locking device. (Window W20).		
Application No:	APP/14/00580	Expiry Date:	28/07/2014
Applicant:	Mr M Campbell	Team:	Team 2
Agent:		Case Officer:	Tina Pickup
Ward:	Emsworth	DMC Lead Member	

Reason for Committee Consideration: Red card request from Councillors Gibb-Gray; Mackey and Galloway: Committee consideration of neighbouring amenities is needed.

EHPBE Recommendation: **GRANT PLANNING PERMISSION IN RETROSPECT**

1 Site Description

- 1.1 6 Kings Road was originally a bungalow and has recently undergone extensive refurbishments and extensions granted under APP/13/01150, including the provision of first floor accommodation. The property is located on the south side of Kings Road, to the east of the junction with Beach Road. The area is predominantly characterised by low density residential development.
- 1.2 To the west of the site is number 4 Kings Road, a semi-detached two storey dwelling. The rear garden of this property has an irregular shape and partially sits to the rear of the application site as well as to the side - the relative boundary treatments are of low hedging in each case. No. 4 has itself a flat roofed rear addition which includes high level windows on the side facing the application site, patio doors to the rear garden and patio area. This area of the house and patio comprise the main living area.
- 1.3 Immediately to the east, No. 8 Kings Road, is an end of terrace older style two storey dwelling having a long narrow rear garden. In this case the boundary treatment with the application site comprises a block work wall of approximately 2 metres in height. The area outside the rear door provides the sitting out area enjoyed by the occupier.
- 1.4 This application relates to a roof light recently installed in the east side roof slope of the original dwelling. The roof light is to a new en-suite bathroom.
- 1.5 This roof light, numbered W20 on the plans, has been installed with a standard Velux opening window, measuring 700mm wide x 900mm high (internal) and is sited such that it is between 1.3m and 1.9m high, measured from the internal floor level to the ceiling surround – due to the thickness of the roofslope, the actual window is recessed within the ceiling and the glass itself sits at a height between 1.5m and 2m from floor level. It is currently fitted with clear glass and has a trickle vent. The ensuite bathroom in which it is sited is fully fitted with wc, sink and shower. A mechanical extractor fan is fitted which automatically comes on with the light switch. It can also be over-ridden with a separate switch enabling it to work independently of the light.

2 Planning History

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

APP/14/00322 - Variation of Conditions 4(i) and 4(ii) of Planning Permission

3 Proposal

- 3.1 This is a full planning application seeking the retention of the rooflight shown as Window W20 which has been installed within the original roof slope on the east side of the property. It is proposed to retain it as the existing openable Velux window, but this would be fitted with obscure glass and a locking device such that the window would be kept shut and locked except for cleaning. The locking device is a Velux recommended product, reference ZOZ 012, involving a small cylinder to be inserted into the window frame - please refer to Appendix C below. The existing clear glass would be replaced with white obscure glass to match the windows W19 and W24 (see Planning application APP/14/00579 on this agenda).
- 3.2 The reason why planning permission is required for this window is explained in section 7.3 below.

4 Policy Considerations

National Policies

NPPF especially paras 203 & 206

Local Plan (Core Strategy) 2011

CS16 (High Quality Design)

Supplementary Planning Documents

The Borough Design Guide SPD, 2011

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Building Control, (Fire Access Consultation):

Ventilation to bathroom will satisfy Building Control if mechanical ventilation of 15 l/s is provided and trickle ventilation either by sliding vent in window or 10mm gap under entrance door to room

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: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 1

Summary: From No 8: The application is similar to the application for the other two rooflights, which result from a breach of condition. The cill height is 1.3m (not 1.6m as shown on plans) enabling easy views out; even if slightly opened gives a sense of being watched; previous decision should remain i.e. be permanently non-opening and obscure glazed to protect residential amenity; if loss of value to neighbour not a material

consideration then costs or inconvenience to applicant should not be a material consideration either; cleaning not considered a valid reason for having openable windows. An alternative 'Fakro' non-opening self-cleaning window is available or a window cleaner could be employed, the stairwell velux is not cleanable from inside so window cleaner for that window could do these too. The internal lock control is absurd and un-enforceable; windows to date been regularly opened; Re window W20 – still currently clear glass; All 3 windows must be permanently non-openable as only viable means to maintain and protect privacy.

Before and after photos have been supplied from the neighbour showing the impact of the extension generally, aswell as the windows opened.

Comment: The issues raised are covered below. The reference to financial matters not being a material consideration is correct regarding the impact of development on property values. In this case material considerations are concerned with impact on amenities.

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) Permitted Development rights
- (iii) Impact on neighbouring amenities

(i) Principle of development

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

(ii) Permitted Development rights

7.3 W20 is located within the original roof slope on the east side of the building. National Permitted Development rights allow for windows to be installed in side roof slopes of existing buildings subject to the following criteria:

"(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 "*

7.4 However, as installed, window W20 does not meet these criteria - it is lower than 1.7m, is openable and has been installed with clear glass. Window W20 is therefore currently unauthorised and this application seeks to allow its retention in the same format as windows W19 and W24, the subject of the preceding application APP/1400579, also on this agenda, i.e. the glass panel be changed to obscure glass and a Velux locking device be fitted.

(iii) Impact on neighbouring amenities

7.5 This application seeks the same solution to the already fitted opening window as the preceding application APP/1400579, in that the applicant proposes adding a locking device. He would also change the clear glass panel to a white obscure glass panel. The applicant states that the window would be kept locked at all times except for cleaning.

- 7.7 The location of window W20 in the east side elevation, is such that when open, and angled view can be obtained over the patio area and part of the rear garden of No 8 with a resultant loss of privacy and overlooking detrimental to neighbouring amenities. The very presence of the roof light affects the outlook from the neighbours private rear garden and this is only considered acceptable if it is obscure glazed and there is no threat of it being generally openable opening. However, it must also be noted that the other roof lights within the property, on the rear roof slope, that are authorised as clear glass and opening, do enable views across the rear garden areas of surrounding residential properties. In such a residential built up areas there will often be a degree of overlooking and views across gardens – it is the additional impact of this side roof light into such private areas of the neighbour's property that is the concern.
- 7.8 The existing boundary treatment does not provide any screening from this first floor window - the eastern boundary includes a block work wall of approximately 2m in height which screens the side elevation but not the roof slope containing W20 which is visible above the wall. There are no existing trees on this boundary as alleged on the submitted plans.
- 7.9 Since being installed, during construction works and during internal decorations, this roof light has been fully opened regularly. The neighbour has supplied photographs of the roof light in the open position - please refer to Appendix D. It is clear that when opened, as the photographs demonstrate, this roof lights certainly has a detrimental impact on the amenity of the adjacent neighbour. However, at the time of writing, the applicant is still in the process of moving in and is not yet living there as a residential dwelling – he assures that once occupying the property as their home they will not open the roof lights except for cleaning.
- 7.10 Accordingly, it is considered that this side roof light, W20 needs to be both obscure glazed and kept closed to protect the privacy of the adjacent neighbours. However, being a bathroom window, that is likely to get steamy, it is essential that an adequate alternative method of extraction and ventilation is available as otherwise, human nature, would instinctively seek to open the window for natural ventilation. The bathroom is fitted with a mechanical extractor fan and the roof light does have a trickle bar along the top. Therefore the Building Inspector is satisfied that adequate ventilation is possible for the bathroom without the need to open the window.
- 7.11 If this application is accepted it will be necessary to condition the change to obscure glass, the fitting of the locking mechanism and define the frequency and timings of openings to allow for 'cleaning' to ensure adequate future control and enforceability. The NPPF paragraph 206 and supporting Planning Practice Guidance, 2014 provides 6 tests for the imposition of conditions on planning permissions, which should only be imposed if the condition satisfies all of the following: i) be necessary; ii) relevant to planning; iii) relevant to the development to be permitted; iv) enforceable; v) precise; and vi) reasonable in all other respects. If permitted and conditioned, the Local Planning Authority would be reliant on the neighbour informing the Council of any breaches of the frequency or duration of opening.
- 7.12 Consideration must also be given to the long term and the fact that this requirement would be in perpetuity i.e. any future occupier of No. 6 would also need to be aware of the need to keep the window locked except for the agreed opening frequency and duration.
- 7.13 It is considered essential that W20 is fitted with obscure glass and kept closed to adequately protect the residential amenity of the occupiers of the adjacent property. Since adequate alternative ventilation is provided within the bathroom, then it is considered reasonable to expect this window to be kept closed and locked. Therefore, on balance, it is considered that the retention and modification of this window W20 would

adequately protect the privacy of the adjacent neighbour at no.8. Whilst the proposed conditions might be difficult to enforce, being reliant on the neighbour to alert the Council to breaches, it nevertheless could be done and ultimately a Breach of Condition Notice could be served if the window opened more than the agreed times.

- 7.14 The alternative would be to refuse the application which would necessitate the applicant to physically change the window to meet the Permitted Development criteria i.e. it would have to be obscure glazed and non-opening; or obscure glazed and made smaller and moved up the roof slope such that the opening element of the window sat at a height over 1.7m. If refused the applicant's other options would be to appeal the decision.

8 Conclusion

- 8.1 The proposed retention of window W20 with a locking device and obscure glass fitted, is considered to satisfactorily overcome the loss of privacy issue to the neighbour at no. 8. With appropriate conditions that could be enforced if necessary, the proposal is considered compliant with policy CS16.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **GRANT PLANNING PERMISSION IN RETROSPECT** for application APP/14/00580 subject to the following conditions

- 1 Window W20 shall be fitted with the hereby approved Velux locking device ZOZ 012 within one month of the date of this decision. Thereafter, in perpetuity, windows W20 shall be kept locked and closed at all times except for cleaning. Cleaning shall take place at a maximum frequency of once a month and the windows shall only be open for 15 minutes on each occasion for cleaning purposes.

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

- 2 Window W20 shall be fitted with obscure glass, achieving a degree of obscuration no less obscure than that which is provided by Pilkington's Texture Glass Obscuration Level 4, within one month of the date of this decision. The obscure glass shall thereafter be retained in perpetuity.

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

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans:

1:1250 Location plan
Velux ZOZ 012- locking device
Velux 1 - position of locking device
First Floor Plan
Elevations

Reason: - To ensure provision of a satisfactory development.

Appendices:

- (A) OS Location Plan
- (B) First Floor Layout
- (C) details of Velux Locking Device
- (D) Photographs of W20 Open