



# Appeal Decision

Site visit made on 12 June 2023

by **Elaine Benson BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28<sup>th</sup> June 2023

**Appeal Ref: APP/R5510/D/23/3322181**

**11 Court Road, Ickenham, Hillingdon UB10 8TF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr and Mrs Richard Campion against the decision of the London Borough of Hillingdon Council.
- The application Ref 76354/APP/2023/451, dated 16 February 2023, was refused by notice dated 13 April 2023.
- The application sought planning permission for part single: part two storey side and rear extension (following part demolition of side extension) without complying with a condition attached to planning permission Ref 76354/APP/2021/3284, dated 22 October 2021.
- The condition in dispute is No 7 which states that: The first floor windows facing No.9 Court Road shall be glazed with permanently obscured glass to at least scale 4 on the Pilkington scale and be non-opening below a height of 1.8 metres taken from internal finished floor level for so long as the development remains in existence.
- The reason given for the condition is: To prevent overlooking to adjoining properties in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

## Decision

1. The appeal is allowed and planning permission is granted for part single: part two storey side and rear extension (following part demolition of side extension) at 11 Court Road, Ickenham, Hillingdon UB10 8TF in accordance with the application Ref 76354/APP/2023/451, dated 16 February 2023, without compliance with condition No 7 previously imposed on planning permission Ref 76354/APP/2021/3284, dated 22 October 2021 and subject to the following condition:
  - 1) The first floor bathroom and ensuite windows in the elevation facing No.9 Court Road shall remain glazed with permanently obscured glass to at least scale 4 on the Pilkington scale (or the nearest equivalent standard) and shall have a restricted opening system allowing a maximum opening of 5cm. The windows shall be retained in that form thereafter.

## Main Issue

2. The main issue is the effect of varying the disputed condition on the living conditions of the neighbouring occupiers in respect of outlook and privacy.

## **Reasons**

3. The approved works have been completed, including the installation of bathroom and en-suite windows at first floor level of the northern flank elevation facing No 9 Court Road (No 9). The location of the windows is consistent with the approved drawings and they are obscurely glazed. However, the lower part of the windows are openable, contrary to the requirement of Condition 7. They are fitted with restrictors. Following an enforcement complaint, the appellants were invited to retrospectively apply for consent for the windows as installed as a variation to the requirements of Condition 7. That application was refused planning permission and is now the subject of this appeal.
4. The restrictors limit the degree of opening of the windows to about 5cm at the bottom edge. There are constrained and narrow views out from the bottom and along the sides of the windows when they are opened which do not amount to overlooking. The depth of their internal window sills and the location of the bathroom fittings physically prevent looking out of these windows through the small openings. As a result, there is no harmful overlooking of the neighbouring amenity space. From my observations, it would not be possible to override the restrictors.
5. I agree with the Council that full opening of the windows would result in direct and harmful overlooking of the main outdoor amenity space of the neighbouring property. It is therefore reasonable and necessary to impose a replacement condition to permanently retain the restrictors on each of the windows as they prevent any overlooking. Such a condition would enable the Council to take any necessary action in the event that the current or future owners or occupiers of the property enabled the windows to fully open. Accordingly, there would be continued compliance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).
6. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed with a varied condition requiring the subject windows to remain obscurely glazed and their opening restricted, in order to protect the privacy of neighbouring residents. As the development is substantially complete, there are no remaining conditions from the original permission that need to be reimposed.

*Elaine Benson*

INSPECTOR