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## Appeal Decision

Site visit made on 1 August 2011

**by Graham Edward Snowden BA BPhil Dip Mgmt MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 August 2011

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### **Appeal Ref: APP/H0738/D/11/2155721**

#### **51 Wansford Close, Billingham, Cleveland TS23 3NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with a condition subject to which a previous planning permission was granted.
  - The appeal is made by Mr and Mrs S Sutheran against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 11/0383/VARY, dated 17 February 2011, was refused by notice dated 19 April 2011.
  - The application sought planning permission for the erection of two storey extension to the rear to include garden room at ground floor and bedroom/ensuite at first floor without complying with a condition attached to planning permission Ref 10/1540/FUL, dated 14 July 2010.
  - The condition in dispute is No 5 which states that: The windows within the south-west side elevation serving the proposed bedroom which will face on to number 49 Wansford Close; hereby approved; shall be fixed and glazed with obscure glass, details of which shall be submitted to and approved in writing by the Local Planning Authority before development commences. The approved glazing shall be installed before the building hereby permitted is brought into use and retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
  - The reason given for the condition is: In the interests of the amenity of the occupiers of the adjacent property.
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### **Application for Costs**

1. An application for costs has been made by Mr and Mrs S Sutheran against Stockton-on-Tees Borough Council. This application will be the subject of a separate decision.

### **Decision**

2. I allow the appeal and grant planning permission for the erection of two storey extension to the rear to include garden room at ground floor and bedroom/ensuite at first floor at 51 Wansford Close, Billingham, Cleveland TS23 3NQ in accordance with the application Ref 11/0383/VARY, dated 17 February 2011, without compliance with condition number 5 previously imposed on planning permission Ref 10/1540/FUL dated 14 July 2010 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

**Main Issue**

3. The main issue is the effect the removal of the condition in dispute, would have on the living conditions of the occupiers of 49 Wansford Close, in terms of loss of privacy.

**Reasons**

4. Policy HO12, saved from the Stockton-on-Tees Local Plan (Local Plan), and cited by the Council in its reason for refusal, requires all extensions to dwellings to, among other things, avoid significant loss of privacy and amenity for the residents of neighbouring properties.
5. The two storey extension, which is the subject of this appeal, extends from the rear elevation of a detached dwelling at the head of a cul-de-sac. It has two first floor windows, lighting a bedroom, on the south-west facing elevation, which runs parallel to the common boundary with the adjacent dwelling at no 49, at a distance of over 8 metres. Beyond that boundary is the neighbours garage (attached to that at the appeal property), before a 1.8 metre high fence, which defines the boundary of the neighbouring rear garden. The effective distance, between the windows, which are the subject of the disputed condition, and the neighbouring garden is, therefore, some 11 metres and the two intervening garages and fence prevent any view of ground level of that garden. The limited view, which is afforded, does not, in my view, infringe on the privacy of occupants and is not dissimilar to the degree of mutual overlooking, which is characteristic of an estate of this nature. I note that the occupants of no 49 have expressed their support for the removal of the condition in dispute.
6. The rear elevation of no 49 is set forward of that of the appeal property, but the views from the windows in the extension towards the windows in the rear elevation of its neighbour are at a tight oblique angle and, again, no significant degree of mutual overlooking would result. In such circumstances, the requirement for the windows in the south-west facing elevation to be obscure-glazed is excessive and unnecessary.
7. I note that an objection has been received from the occupiers of no 53 to the removal of any condition requiring obscure glazing in the first floor window on the north-east facing elevation of the extension. This is covered by condition 4 in the original permission, which is not in dispute at this appeal.
8. I am, therefore, satisfied that the removal of condition 5 would not have any significant effect on the living conditions of the occupiers of 49 Wansford Close, in terms of loss of privacy, and, as a consequence, there would be no infringement of Local Plan Policy HO12.
9. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

*G E Snowdon*

INSPECTOR