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## Appeal Decision

Site visit made on 24 September 2012

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

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

Decision date: 26 November 2012

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### Appeal Ref: **APP/J1535/A/12/2177252**

### **The Beagles Hut (now known as no. 57), Retreat Way, Chigwell, IG7 6EL.**

- 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 without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Weston Homes (Housing) Ltd. against the decision of Epping Forest District Council.
  - The application Ref PL/EPF/2103/11, dated 13 October 2011, was refused by notice dated 29 February 2012.
  - The application sought planning permission for minor material amendment on EPF/0485/09 (detached house) - numerous alterations including addition of basement level without complying with a condition attached to planning permission Ref PL/EPF/2003/10, dated 10 November 2010.
  - The condition in dispute is No 7 which states that: *Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995 (or of any equivalent provisions of and Statutory Instrument revoking or re-enacting the Order) no windows other than any shown on the approved plan shall be formed at any time in walls or roof slopes of the development hereby permitted without the prior written approval of the Local Planning Authority.*
  - The reason given for the condition is: *To safeguard the privacy of adjacent properties.*
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### Decision

1. The appeal is allowed and planning permission is granted for minor material amendment on EPF/0485/09 (detached house) - numerous alterations including addition of basement level at The Beagles Hut (*now known as no. 57*), Retreat Way, Chigwell, IG7 6EL in accordance with application Ref PL/EPF/2103/11, dated 13 October 2011, without compliance with condition number 7 previously imposed on planning permission PL/EPF/2003/10, dated 10 November 2010, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:
  - 1) Notwithstanding the provision of the Town and Country Planning General Permitted Development Order 1995 (or of any equivalent provisions of and Statutory Instrument revoking or re-enacting the Order) no windows other than any shown on the approved plans (reference WH74b/10/25.01 Rev G and WH74b/10/30.01 Rev E) shall be formed at any time in walls or roof slopes of the development hereby permitted without the prior written approval of the Local Planning Authority.

### **Application for costs**

2. An application for costs was made by Weston Homes (Housing) Ltd against Epping Forest District Council. This application is the subject of a separate Decision.

### **Main Issue**

3. The effect that varying the disputed condition to allow changes to the approved fenestration would have on the living conditions of neighbours, having regard to the previously approved scheme.

### **Preliminary Matters**

4. The appeal application involves various changes to the approved fenestration at ground and first floor level. These changes were incorporated into the dwelling which was completed in March 2012 and is now occupied.
5. It is evident from the material submitted that the Council is not opposed to most of these changes. I agree with the Council's findings on these aspects of the scheme, given that they are either ground floor windows, obscure glazed or overlook woodland.
6. The Council, however, is concerned about the effect of the insertion of a new window over the stair-well and the enlargement of the window to Bedroom 3 at first floor level in the front elevation of the dwelling on the privacy of the occupiers of dwellings on Woolhampton Way.

### **Reasons**

7. The previously approved scheme allows for the insertion of two sizeable bedroom windows at first floor level in the front elevation of the appeal dwelling. From these windows it would have been possible to look out towards the rear of the properties on Woolhampton Way. Clearly a judgement was taken at the time the application was determined that such windows would not significantly affect the level of privacy enjoyed by those living on Woolhampton Way. Given the substantial distance between these two window and the Woolhampton Way properties I have no reason to disagree with this view.
8. I accept that the addition of several more first floor windows in the front elevation of the appeal property, or a large increase in the areas of glazing, may have given rise to justified concerns about overlooking or the perception of being overlooked. However the changes are not of this order. The window over the stairwell is small and views out are limited because of its high-level position, whilst the increase in the width of the Bedroom 3 window is relatively modest. Consequently I do not believe that these changes make a material difference to the levels of privacy that would have been enjoyed in and around the properties on Woolhampton Way if the previously approved scheme had been implemented.
9. I conclude, therefore, on the main issue that varying the disputed condition to allow various changes to the approved fenestration would not have an undue impact on the privacy of neighbours. Consequently the appeal scheme accords with the objectives of *Policies DBE2 and DBE9* of the *Epping Forest District Local Plan* which seek to protect the living conditions of those living nearby. These findings constitute compelling grounds for allowing the appeal. None of

the other matters raised outweigh the considerations that have led to my decision.

*Christopher Anstey*

Inspector