

**Case Name:** *Taylor-Davies & Anor, R (On the Application Of) v Wandsworth London Borough Council* [2022] EWHC 355 (Admin) (21 February 2022)

**Full case:** [Click Here](#)

**Commentary:**

The High Court has dismissed an application for judicial review of the decision of Wandsworth Council (the “Defendant”) not to take enforcement action for an alleged breach of planning control at a residential property in Putney (the “Property”).

The issue before the Court was whether, under the terms of the planning permission granted by the Defendant for a roof extension to the Property (the “Permission”), the rooflight which overlooks the Claimants’ top floor bedroom, study and bathroom, was subject to Condition 3, which requires windows in the side elevations to be fitted with obscured glass in order to control overlooking and safeguard the privacy of neighbours.

Following the well-established case law principles, Mrs Justice Lang first considered what the reasonable reader’s interpretation of the Permission would be. The Permission was held to be ambiguous - the reasonable reader could interpret Condition 3 as referring to both dormer windows and rooflights because it does not distinguish between different types of “windows”, however, the reasonable reader’s interpretation of the approved drawings that label only the dormer windows as having to be fitted with obscured glass suggests that the rooflights do not have to be fitted with obscured glass.

In such circumstances, the Court was permitted to have regard to extrinsic evidence. Mrs Justice Lang considered that the only extrinsic evidence that can properly be considered was the officer’s report and not correspondence between the parties – the officer’s report is in the public domain and is easily accessible, whereas private documents passing between the parties or their agents are not in the public domain and generally inaccessible. The officer’s report concluded that the “amenity impacts have been considered and deemed acceptable” on the basis that the dormer windows on the side elevations would be obscured, and by inference, that the rooflights would not be obscured. That was a matter of planning judgment upon which the officer proceeded to grant permission subject to conditions and it is not open to the Court to investigate whether the officer’s assessment of amenity was flawed.

On the basis that the drawings unequivocally demonstrate that the obscure glazing requirement only applies to the dormer window and the officer’s report clearly supporting this interpretation, the claim for judicial review was dismissed.