
Appeal Decision

Site visit made on 7 November 2016

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 14TH November 2016

Appeal Ref: APP/K3605/W/16/3154919

47 High Street, Esher, Surrey KT10 9RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Thomas and Thomas against the decision of Elmbridge Borough Council.
 - The application Ref 2015/4240, dated 23 November 2015, was refused by notice dated 21 January 2016.
 - The development proposed is first floor rear extension to create new flat.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The description of development has changed from that given on the application form and I have reflected this in the heading above.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposed development would provide satisfactory living conditions for its future occupiers with regard to privacy and outlook
 - The effects of the proposal on the living conditions of the occupiers of No. 1 Aissele Place with regard to privacy and outlook and on the occupiers of No 45a High Street with regard to outlook and light
 - Whether the proposal makes adequate provision for affordable housing

Reasons

Living conditions

4. The proposal would create a first floor flat above what is currently the rear single-storey part of a commercial property. There are residential properties at first and second floor levels that look out over a courtyard area to the rear of High Street that also gives access to the relatively recently built mews style dwellings in Aissele Place.
 5. I note that there has been a first floor extension at No. 45 High Street but it does not have any rear facing windows. Notwithstanding any other nearby first floor additions, the elevations of No. 47a High Street and No. 1 Aissele Place
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that face each other across the courtyard are set a substantial distance apart, thus maintaining a good level of privacy between these residential properties.

6. As with the other mews properties in Aissele Place, No. 1 has its front door and garage at ground floor level with its main windows on the first and second floors. I accept that in densely built-up areas such as this part of Esher, it is not uncommon for dwellings to sit in relatively close proximity to one another. However, No. 1's first floor windows would face directly towards the windows in the south-eastern elevation of the proposed dwelling, which would serve its main open plan living, kitchen and dining areas. Given the proximity of the proposed dwelling to No. 1, I consider that this mutual relationship would result in an unacceptable level of privacy for both sets of occupiers.
7. I have given consideration to whether this matter could be addressed by a condition requiring obscure glazing of the proposed dwelling's south-eastern windows. However, I am of the view that a perception of overlooking would remain, particularly for No. 1's occupiers. Moreover, the need for such a measure in relation to two of the main habitable room windows serves to highlight the unacceptability of the proposal in respect of its relationship to the neighbouring property.
8. Turning now to matters of outlook for future occupiers; the proposed dwelling would have four windows serving the main living/kitchen/dining areas. Due to the proximity of the dwellings in Aissele Place, the outlook from the south-eastern facing windows would be of a substantial mass of built form. However, there would also be two windows facing to the side, which would afford occupiers the opportunity of views over the open area to the rear of the Barclays Bank building on the other side of the Aissele Place access. Furthermore, the rearmost part of this building is of a single-storey. Nevertheless, the dwelling's bedroom windows would face directly towards the higher flank wall of the bank building. Whilst I recognise that in such a built-up area, a general outlook towards other buildings is difficult to avoid, overall, the restricted views and the proximity of other buildings would not provide an acceptable outlook for the dwelling's future occupiers.
9. The current outlook from No. 1 Aissele Place is currently over the ground floor part of the building above which the appeal proposal would be built. Given the extent and relative position of this single-storey structure, a sense of space has been maintained between No. 1 Aissele Place and No. 47a High Street. The proposal would fill in this space with a substantial amount of built form and given its proximity, the building would appear omnipresent in views from No. 1's facing habitable rooms. This would significantly diminish the outlook for No. 1's occupiers, resulting in an unacceptable effect on their living conditions.
10. I now turn to the effects on light and outlook in respect of No. 45a High Street. Beginning firstly with outlook; this property has its main façade orientated towards the first floor extension at No. 45 that sits on the other side of the access walkway and which is in direct view from and in close proximity to No. 45a's kitchen window. This is the main window at this level.
11. The positioning of the proposed extension would fill in the currently open area above the ground floor of No. 47 and block any views over it towards the existing open area behind the bank and the mature vegetation beyond. This would add to the sense of enclosure around No. 45a and thereby significantly diminish the outlook from its first floor window.

12. In terms of light, the extension's positioning relative to No. 45a, in combination with its roof form has maintained a satisfactory relationship such that the amount of light reaching the first floor windows has not been significantly reduced. This is despite breaching a 45 degree angle. The appellant accepts that there would be some reduction in the amount of light reaching No. 45a's kitchen window. However, given the distance between it and the proposed extension, I am not persuaded that this would be unacceptable.
13. To conclude on matters of living conditions; whilst I have not found that there would be a harmful effect on the amount of light reaching No. 45a High Street, the various harms to privacy and outlook described above would not result in acceptable living conditions for the occupiers of this property, those at No.1 Aissele Place or those who would occupy the proposed dwelling. The proposal thereby runs counter to Policy DM2 of the Elmbridge Development Management Plan (2015) that, amongst other things, requires development to provide appropriate outlook and adequate privacy for existing and potential occupiers. The proposal also conflicts with the amenity objectives of the Council's Design and Character Supplementary Planning Document Companion Guide: Esher (2012).
14. I note the Council's references to Policies CS9 and CS 17 of the Elmbridge Core Strategy (2011) (CS). Policy CS17 includes reference to the need for development to protect amenity in the area generally, and to which I consider the proposal would not broadly accord. However, Policy CS9 appears to me to be a strategic policy for guiding the location of development and land uses within Esher and I am not convinced of its relevance to the proposal before me.

Contribution towards affordable housing

15. There is dispute between the parties in relation to the Council's requirement for a financial contribution towards the provision of affordable housing. The Council maintains that because of the particular circumstances in the borough, whereby property prices are some of the highest in the country outside London, an affordable housing contribution should be provided in accordance with CS Policy CS21. To counter this, the appellant has referred to recent changes to Planning Practice Guidance, which sets out that affordable housing and tariff style contributions should not be sought from developments from small scale and self-build development. Thus, a planning obligation has not been provided.
16. Notwithstanding this, I am dismissing the appeal for other substantive reasons, and do not consider any benefits of a contribution towards affordable housing resulting from a single modest dwelling would outweigh the clear identified harm in relation to the other main issues. Accordingly, I do not consider this matter further.

Conclusion

17. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector