
Appeal Decision

Site visit made on 17 January 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 03 February 2017

Appeal Ref: APP/K3605/W/16/3160775
37 Southdown Road, Hersham KT12 4PP

- 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 Mr Geoff Bennett against the decision of Elmbridge Borough Council.
 - The application Ref 2016/0471, dated 27 January 2016, was refused by notice dated 20 April 2016.
 - The development proposed is first floor side extension to create new 1 bedroom flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal varies between the application form and the subsequent documents. I have used the description given on the decision notice as it describes the development more succinctly.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding area;
 - the effect of the proposal on the living conditions of neighbours, with particular respect to privacy, loss of light and outlook;
 - whether the proposal would ensure adequate living conditions for future occupiers, with particular respect to privacy and provision of outdoor space, and;
 - whether the proposal would make adequate provision for affordable housing.

Reasons

Character and appearance

4. The appeal site at 37 Southdown Road is located within a predominantly residential area, and comprises one of a pair of semi-detached dwellings. Adjoining No 37 is a single storey extension, and the proposal would add a second floor to this structure to create a new one bedroom flat.
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5. I accept that the proposed materials would match those of No 37, and that the neighbouring dwellings are also two storeys in height. To that extent, the development would reflect its surroundings. However, the immediate area is characterised by three pairs of semi-detached dwellings which are homogenous in scale and design, and appear originally to have been symmetrical in form.
6. Taken together, the existing and proposed extensions would appear as a third asymmetrical element, thus departing from the established form of paired dwellings. It would be wider than the existing frontage of No 37 and that of its neighbour, thus forming a bulky and incongruous addition. The extension would dominate the site, and would be significantly at odds with the prevailing pattern of development.
7. I therefore find that the proposal would unacceptably harm the character and appearance of the surrounding area. It would thus conflict with Policy CS17 of the Elmbridge Core Strategy (CS, July 2011), insofar as it seeks to protect local character, and Policy DM2 of the Elmbridge Local Plan Development Management Plan (DMP, April 2015) insofar as it requires development to preserve or enhance the character of the area.

Living conditions

8. The Council has voiced concern about the relationship of the development to 35 Southdown Road, which sits opposite the appeal site. The Council's document entitled 'Elmbridge Local Plan Design and Character Supplementary Planning Document' (SPD, April 2012) recommends a minimum privacy distance of 22m between facing elevations. The proposed bedroom and living room windows of the new flat would face directly north towards the upstairs windows of No 35 at a distance of approximately 12m. As a result, the privacy of the occupants of No 35 and of the future occupiers of the development would be materially harmed by such views at close proximity.
9. The SPD also recommends a separation distance of 15m for new two storey elements which would fall within a 90 degree arc from the edges of main windows to habitable rooms. At present, No 35 has an uninterrupted, open outlook above the single storey extension at No 37. The introduction of the proposed second storey, at a distance of around 12m, would intrude on the natural line of vision, resulting in a harmfully increased sense of enclosure. In addition, as the development would sit directly to the south of No 35, it would be likely to affect sunlight levels at No 35.
10. In terms of outdoor space for future occupiers, the scheme would subdivide the existing plot and allocate a narrow strip of land for the new first floor flat. The space would be adjacent to the footpath, and would be surrounded by a new fence of approximately 1.8m in height. Whilst this would achieve privacy, I am concerned that this relatively small plot of land would feel overly enclosed by a fence of this height, reducing the quality of the space.
11. Further quality issues would arise from the presence of the bin store, which would be likely to give rise to unpleasant odours particularly during warm weather. I thus find that the proposal would not provide future occupiers with outdoor space of an adequate quality.
12. Drawing these factors together, I conclude that the proposal would unduly harm the living conditions of neighbours, and would fail to provide adequate

living conditions for future occupants. It would therefore conflict with CS Policy CS17, which amongst other things seeks to protect the amenities of those in the area, and DMP Policy DM2, insofar as it seeks to protect the amenity of adjoining and potential occupiers and users.

13. The Council has also alluded to the effect of the development on outlook from the chalet bungalow¹ which would sit to the south east of the appeal site. This is part of the redevelopment of the Royal British Legion site. However, in the absence of detailed plans for that proposed dwelling, I am unable to be certain of its exact relationship to the appeal site. This matter is therefore inconclusive.
14. The appellant argues that a two storey element of the Royal British Legion scheme would give rise to overlooking of their private space at a distance of 4m. However, the full details of this scheme and the circumstances under which it was found to be acceptable are not before me. The appellant states that there has been a lack of consistency in the application of privacy distances. Whilst I acknowledge the appellant's frustration, such a circumstance would not justify the harm I have identified above.
15. The appellant argues that the provision of any space at all would be an enhancement, but I disagree. A poor quality outdoor space would be a source of dissatisfaction and frustration for future occupants, and would not fulfil the relevant policy objectives.
16. I have had regard to the letters of support which have been received in respect of the proposal, but these have not led me to a different conclusion.

Affordable housing contribution

17. The Council's fourth reason for refusal related to the lack of an agreement to secure a financial contribution towards affordable housing in the area. The appellant has since submitted a unilateral agreement (UU) in accordance with CS Policy CS21, which seeks financial contributions toward affordable housing from small schemes.
18. CS Policy CS21 is consistent with paragraphs 47 and 50 of the National Planning Policy Framework, which require local planning authorities to meet the full, objectively assessed needs for market and affordable housing and, where they have identified that affordable housing is needed, set policies for meeting this need, which can include financial contributions if they are robustly justified. Planning applications are to be determined in accordance with the development plan unless material considerations exist which would indicate otherwise.
19. A key material consideration is the Written Ministerial Statement of 28 November 2014 (WMS), which attracts considerable weight. The WMS states that contributions should not be sought from developments that would comprise 10 units or less, in order to avoid placing a disproportionate burden on small-scale developers. However, the Council has provided evidence, in the form of a statement, highlighting the significant difficulty of providing affordable housing in Elmbridge, whose median house prices are amongst the highest in the country. They have also shown that contributions from small schemes have been an important factor in the provision of affordable housing in recent years.

¹ 2013/3673

20. On this basis, I find that local circumstances indicate that CS Policy CS21 should outweigh the WMS. The appellant has not provided any evidence to the contrary. I conclude that the affordable housing contribution meets the three tests sets out in Regulation 122(2) of the Community Infrastructure Regulations 2010 in that it would be necessary, directly related to the development, and fairly and reasonably related to it in scale and kind. I therefore attach weight to the UU.

Conclusion

21. Despite my finding that the UU to provide a contribution towards affordable housing would weigh in favour of the proposal, it would not outweigh the harm I have identified to living conditions and to the character and appearance of the area. For the reasons above, and taking all other matters into consideration, I therefore conclude that the appeal should be dismissed.

Elaine Gray

INSPECTOR