
Appeal Decision

Site visit made on 3 July 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 19 July 2017

Appeal Ref: APP/K3605/W/17/3171220

37B St Marys Road, Weybridge KT13 9PT

- 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 Frank Gauci against the decision of Elmbridge Borough Council.
 - The application Ref 2016/3330, dated 10 October 2016, was refused by notice dated 14 December 2016.
 - The development proposed is a single storey rear extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on the living conditions of the occupiers of 37A St Marys Road in terms of light and outlook.

Reasons

3. The appeal property is a bedsit flat on the ground floor located at the rear of a clinic. It is accessed to the rear of this building off St Marys Road via an alley. To the front of this flat is a small patio area (the first patio) and to the southwest is an open area to another building including a garage. Beyond the patio to the southeast is a fence and beyond that another patio (the second patio), which at the time of my site visit had a table and chairs and other outdoor furniture on it. Further to the southeast beyond the second patio is a white painted wall, approximately 2 m high, and beyond this a taller single storey building.
4. In the rear wall facing onto the second patio are two openings; a door which provides access to a stair to 37A St Marys Road, and a small window¹. This window provides light to the kitchenette area of the appeal property, No 37B. The accommodation for No 37A is at first floor level, although it would appear that the second patio provides its outdoor amenity space.
5. The proposal is to construct a single storey rear extension to the area of No 37B on the vast majority of the area of the first patio. Access to the second patio, and thus to No 37A, would be provided on what would remain of the first patio area beyond the proposed extension.

¹ This window is smaller than shown on the application drawing F/499/02 revision A.

6. The proposal would result in the area of the second patio being tightly enclosed on three sides; the building itself, the proposed extension and the existing wall and extension to the southeast. Only the fourth side would be open and this is narrow being the width of the second patio. This would mean that this proposal would have an overbearing effect on anyone waiting to enter No 37A and significantly harm the usefulness of the second patio area as an outdoor amenity space.
7. While the window to the kitchenette of the appeal property would lose light from the shadowing effects of the proposed extension, having been inside No 37B at the site visit, I am satisfied that this would not be material, and the this would not have been such as to lead to a dismissal of the appeal on its own, and in any event would have been off-set by the benefits of the enlargement of the appeal property. As the accommodation of No 37A is at first floor, the proposal would not give rise to a material loss of light to the occupiers of that property within habitable rooms.
8. The Council has referred to Policy CS17 of the Elmbridge Core Strategy 2011. This deals with local character, density and design. The Council did not refuse the application in respect of its effect on local character or density and in respect of design this policy does not relate to the effect of development on the living conditions of the occupiers of dwellings. I consider that the proposal is in accordance with the criteria referred to and as such the proposal complies with this policy.
9. The Council has also referred to Policy DM2 of the Elmbridge Development Management Plan 2015 (the EDMP). This indicates development proposals should be designed to offer an appropriate outlook, and provide adequate daylight, sunlight and privacy.
10. The Council has finally referred to its Design and Character Supplementary Planning Document (the SPD) and the SPD Companion Guide: Home Extensions (the SPDCG). This is intended to give general advice and set out design principles to ensure extensions are sympathetic to the original house, are in keeping with the character of the local area and preserve the amenities of neighbours. These are good planning principles in line with Policy DM2 of the EDMP. However, I have not been directed to any specific part of the SPDCG and while giving the principles significant weight I am unable to give weight to any particular criteria within the SPD or SPDCG.
11. In conclusion, notwithstanding the lack of harm through loss of light within the properties, the proposal would result in unacceptable living conditions for the occupiers of 37A St Marys Road in terms of outlook by creating an overbearing effect on their amenity space. As such it would be contrary to Policy DM2 of the EDMP as set out above and the principles of the SPD and SPDCG. It would also be contrary to paragraph 17 of the National Planning Policy Framework which seeks a good standard of amenity for all existing occupiers of land and buildings.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson INSPECTOR