



Appeal Decision

Site visit made on 28 October 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/K3605/D/19/3238726

43 Avondale Avenue, Hinchley Wood, Esher KT10 0DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Joseph Kelly against the decision of Elmbridge Borough Council.
 - The application Ref 2019/1730, dated 20 June 2019, was refused by notice dated 4 September 2019.
 - The development proposed is described on the application form as 'single storey rear addition and first floor side addition'.¹
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Decision

1. The appeal is dismissed.

Preliminary matters and clarifications

2. Application Ref 2019/1730 followed application Ref 2018/3101. The development proposed in both instances is the same. A letter on behalf of the appellant to the Council of 20 June 2019 regarding the latter is before me. That sets out how the second application was made on the basis that the Council had 'failed to analyse [correctly] the relationship between neighbouring properties', namely No 43 and its southerly neighbour No 45.
3. Aside from a roughly-sketched 1/500 block plan, however, the plans associated with the initial application do not appear to have illustrated the neighbouring property.² The appellant's appeal statement states that plan 44/18 and the 1/500 block show, were No 43 to be extended as proposed, that a separation distance of around 1.93 metres between the nearest ground floor side elevations of Nos 43 and 45 would be maintained (the common boundary between the two falling fractionally closer to No 43).
4. Setting aside how that is based in part on a rough sketch, it is difficult to reconcile that figure with additional drawing EBC/19/4/1 (produced in support of application Ref 2019/1730, detailing the relationship between Nos 43 and 45). That drawing instead indicates that, at its closest point, a ground floor side elevation of No 45 is set back 0.75m from the boundary (as opposed to a one metre set back as used in the 1.93m figure). However that is by way of annotation; drawing EBC/19/4/1 does not appear to be scalable. I appear to be

¹ The more detailed description given in the Council's decision notice is 'part single/part two-storey side/rear extension following partial demolition of existing house'.

² Plans 44/18, 44/18/1 and 44-18-2.

told, therefore, either that the ground floor separation between the two properties is 1.93m or that it is 1.68m.

5. The Council instead states, based on site measurements, the correct figure should be 0.89m within the plot of No 43 and 0.62m within the plot of No 45, i.e. some 1.51m separation at ground floor level. EBC/19/4/1 indicates, however, that a greater separation distance, approximately 2.13 metres, would be maintained at first floor level between the extension proposed and the facing side dormer at No 45, on account of the set-in of the latter from the eaves. That appears to be premised on the facing elevation of the dormer being 1.2m away from the common boundary, and therefore around 0.45m in from the line of the relevant ground floor elevation.³
6. I saw, however, that a 0.45m set in for the dormer does not appear to be accurate. The north-facing elevation of the side dormer at No 45 appeared roughly in line with the garage door of that property. The garage door is in turn set in from the north-facing ground floor elevation only by a single brick's length or so. That suggests the dormer is set back only around half that cited above (based on the length of a standard Imperial brick). All that said, measurements are inevitably subject to some margin of error. However based on the evidence before me, the most accurate ground floor separation distance between Nos 43 and 45 is somewhere around 1.64 to 1.68m.⁴ Similarly, the most accurate first floor separation distance is about 1.735 to 1.905m.⁵

Policy context

7. Each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. In this instance, notwithstanding a review underway, the development plan includes policies of the Core Strategy (adopted 20 July 2011, the 'CS') and of the Development Management Plan (adopted 15 April 2015, the 'DMP'). I have also had regard to various material considerations including the Council's Design and Character Supplementary Planning Document (adopted 18 April 2012, the 'SPD'), the National Planning Policy Framework ('NPPF') and the National Design Guide ('NDG').
8. In brief, and amongst other things, CS policy CS17 'Local Character, Density and Design' and DMP policy DM2 'Design and amenity' seek to ensure that development integrates appropriately with the character of its surroundings, an aim shared with NPPF paragraph 127(c). Likewise reflective of NPPF paragraph 127(f), DMP policy DM2(e) in particular seeks to ensure a high standard of amenity for all, including appropriate outlook and natural light. Guidance as to how those aims may be achieved in practice, relative to the particular nature of the built environment in the Borough, is provided in the SPD.
9. Paragraph 5.53 of the SPD sets out how development should seek to respond to the rhythm of the streetscape (broadly reiterated in NDG section I1). It

³ 1.2m- 0.75m.

⁴ A 0.75m set back from the boundary shown in EBC/19/4/1 for No 45, and either a 0.93 set back in respect of No 43 shown on plan 44/18 or 0.89m as measured by the Council.

⁵ The first figure is taking a 0.89m set in from the boundary for No 43, a 0.62 set in from the boundary of No 45, with the facing elevation of the dormer set in 0.225m in from the ground floor elevation (0.45m/2). The second figure is taking a 0.93 set in from the boundary of No 43 as on plan 44/18, a 0.75m set in from the boundary for No 45 as on plan EBC/19/4/1, and a further set in from the eaves of 0.225m on account of my reasoning in paragraph 6 above.

explains that 'siting should avoid creating or increasing a terracing effect by effectively closing gaps between buildings with development'. The appellant's agent points out that, as Nos 43 and 45 would remain physically separate as a result of the development proposed, a terracing effect cannot be said to occur as the ordinary definition of a terrace is 'a row of houses built in one block of uniform style and a row of houses joined by party walls'.

10. That is somewhat simplistic; under that logic properties separated by a hair's breadth would still not appear as a terrace given that they remained physically separate. In my view there comes a point where buildings encroach so close to one another that they may be perceived as a terrace, or close thereto. Moreover the focus on that turn of phrase detracts from the overarching provisions of relevant policy, which seek to ensure harmony rather than discord in the pattern of development and street scene.
11. There are various 'Companion Guides', which relate to specific types of development, embedded within the SPD. The Home Extensions Companion guide is particularly relevant here, section 1.21 of which addresses side extensions. That recommends that, as a minimum, a one metre gap should be maintained between 'any extension above ground floor level and the boundary'. However it also sets out that it may be necessary to require more than one metre separation 'particularly in areas of low density characterised by a spacious layout...'.
12. I note that there is no argument made by the appellant as to what development may be achievable here under permitted development rights (or certificate pursuant section 192 of the Town and Country Planning Act 1990 as amended in that respect). Moreover certain limitations in statute would, in any event and provided permitted development rights are intact, appear to prevent development of the extent proposed from coming forward.⁶

Main issues

13. Against the context above, the main issues are the effects of the development proposed on (i) the character and appearance of the area, and (ii) the living conditions of the occupants of No 45, with particular regard to natural light and outlook.

Reasons

Character and appearance

14. No 43 is a substantial detached dwelling, appearing interwar in origin, set within an established residential area. The property has a relatively intricate form and architectural detailing consistent with that era. Notably there is a projecting two storey front gable nearer No 41 finished in herringbone bond. The highest point of the roof is slightly off-set from the ridgeline of that gable element, from which a catslide roof form pitches steeply downwards towards No 45. Aside from potential later alterations to the integral garage to No 43 and certain cosmetic differences, it is effectively a mirror image of No 45.

⁶ Notably schedule 2, Part 1, Class A(A.1)(i) and (j) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

15. Many nearby properties are of essentially the same typology and likewise set along a largely consistent building line, albeit that certain properties have been altered and extended over time and some infill has also occurred. As reasoned by the Inspector who determined an appeal at No 49 in 2018,⁷ I acknowledge that properties are often quite closely spaced relative to one another. The appellant sets out how the separation between a number along Avondale Avenue, including some with first floor side elements and additions, does not adhere to the recommendations in the SPD as detailed above.⁸
16. However it equally appeared that the side-to-side separation distance between various properties nearby exceeds two metres. There is also limited evidence before me as to the planning considerations, if any, that applied in respect of other extensions.⁹ Moreover, and notwithstanding that each proposal must be determined on its merits, such extensions and alterations are not so common so as to have significantly altered the prevailing layout of the area, or its relaxed, leafy suburban character.
17. Even if alterations and extensions had impinged upon that character, that would not justify allowing incongruous development in the present. Part of the distinctive character here results from the broadly consistent design of many properties and the relative openness, or visual relief, resulting from catslide roofs. I saw that there are often, by consequence of the form of properties, views of the sky between neighbouring dwellings and of mature trees dotted about the area. Such openness and views, in my view, merit an appropriate degree of protection.
18. The development proposed, a two storey side extension projecting significantly above the existing roof form, would clearly add to the scale of the existing property (as shown in particular on plan 44-18-2). The scheme would fundamentally alter the roof form of the property, thereby reducing its consistency with many dwellings nearby. Notwithstanding a slight level change between Nos 43 and 45, the proposal would substantially reduce the separation between the two properties. The resultant increase in bulk would reduce openness commensurately, to the detriment of local character.
19. The discussion in paragraphs three to six is not simply abstract; on balance the most reliable evidence I have indicates that the first floor separation distance proposed would not adhere to the minimum spacing recommendations of the SPD (albeit that it would be thereabouts). That is notwithstanding the complexities in the evidence set out above, and the shortcomings with the plans. That reinforces my view that the development proposed would on balance appear discordant with, and detrimental to, prevailing character and appearance. I therefore conclude that the proposal conflicts with the relevant provisions of CS policy CS17, DMP policy DM2 and NPPF paragraph 127(c).

Living conditions

20. I saw that the largest window serving, and therefore principal aspect from, the dormer at No 45 is looking towards No 43, albeit there are also more modest

⁷ Referenced in the Council's officer report, Ref APP/K3605/D/17/3182580.

⁸ Nos 6, 8, 10, 12, 14, 32, 34, 35, 37, 39, 41, 47 and 49.

⁹ Notwithstanding that Council's officer report sets out contextual differences to many of the cited examples in the footnote above (noting that some decisions were also taken before the SPD, and yet other extensions represented, or likely represented, permitted development).

windows facing both towards Avondale Avenue and eastwards. However the extension proposed would be squarely northwards of the principal dormer window. By virtue of that orientation the proposal would not, in my view, have an unacceptable effect on natural light; it is unlikely that the scheme would have much appreciable effect in that respect other than around sunrise and sunset during summer months. Even then, on account of the position of the sun low in the sky at those times, surrounding buildings and trees are likely to have a more significant effect in terms of screening.

21. Conversely the proposal would significantly increase the bulk of No 43 close to the boundary, resulting in a feeling of being unduly hemmed in when making use of the dormer at No 45. At present outlook through the window northwards is, albeit limited, across a roof slope pitched away from No 45. That is in contrast to a view directly towards a blank wall, at best some 2.13 metres distant (or, as set out above, likely closer). Whilst the front and back windows serving the dormer may enable some additional light to reach within that element of the property, by virtue of their modest size and relatively low level, they afford only limited outlook. Consequently the proposal would result in clearly adverse sense of enclosure to the occupants of No 45, in conflict with the relevant provisions of DMP policy DM2(e) and NPPF paragraph 127(f).

Conclusion

22. I accept that the proposal would be beneficial to the occupants of No 43 by virtue of providing additional living space of a modern standard. However those benefits are essentially private, whereas planning relates principally to the appropriateness of development with regard to the public interest. Moreover the benefits to the occupants of No 43 by virtue of the scheme would result in commensurate disadvantage to the occupants of No 45. By consequence, having considered the development plan as a whole, the approach in the NPPF, and with regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR