



Appeal Decision

Site visit made on 27 May 2020

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 June 2020

Appeal Ref: APP/K3605/C/20/3244717

Land at 81 Upper Farm Road, West Molesey, Surrey KT8 2QU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mrs Jayne Taylor against an enforcement notice issued by Elmbridge Borough Council.
- The enforcement notice was issued on 18 December 2019.
- The breach of planning control as alleged in the notice is within the last four years and without planning permission, the erection of a single store (*sic*) rear extension.
- The requirements of the notice are: (a) Permanently remove from the land the newly constructed single storey rear extension which has been added to a previously added single storey rear extension; or (b) Reduce the depth of the single storey rear extension to no more than three metres from the elevation of the previously added single store (*sic*) rear extension; and (c) The materials used in the exterior works of the reduced single storey rear extension must be of a similar appearance to that used in the construction of the existing dwellinghouse; and (d) Permanently remove from the land any resultant waste associated with complying with (a) or (b).
- The period for compliance with the requirements is six months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Ground (a) appeal

Main Issue

1. The main issue in this appeal is the effect of the extension on the living conditions of occupiers of adjoining residential property, having regard to outlook and daylight.

Reasons

2. The host dwelling is one half of a pair of semi-detached residential properties. There is a pre-existing single storey lean-to extension at the rear. A similarly sized lean-to extension is also found on the rear elevation of the attached dwelling, 82 Upper Farm Road (No 82). The pair of dwellings are located on a pleasant residential estate made up of properties of similar age and architectural style, many of which have subsequently been altered and extended.
3. The single storey extension in this appeal has extensive glazing set within walls of unfinished masonry, with profiled metal tiles covering a shallow monopitch roof. The extension is about half as wide as the host dwelling and projects

around 6 m beyond the pre-existing single storey lean-to, alongside the boundary with No 82. The distance from No 82's lean-to and the end wall of the extension is also around 6 m. As the side wall of the extension is about 1 m from the nearest window in No 82's lean-to, the angle between the edge of this window and the end wall of the extension is significantly greater than 45°. The Council's *Design and Character Supplementary Planning Document (SPD)* in its *Companion Guide: Home Extensions* advises that single storey extensions should not exceed 3 m in depth or, where larger, should not exceed an angle of 45° from the edge of the nearest adjoining neighbour's window. Accordingly, the extension does not meet the SPD guidance.

4. Be that as it may, the nearest window in No 82's rear lean-to is of relatively modest size. Prior to erection of the extension, the boundary fence between the appeal property and No 82 was already in situ around 1 m from the window. Due to the above factors, the outlook from the room lit by this window is already likely to have been limited. Moreover, I am given to understand that the window lights a kitchen, i.e. a largely functional internal space where occupiers may not have the same expectations in terms of outlook and daylight compared to, for example, a living room. The French windows situated around 3-4 m from the extension are more likely to provide the main source of outlook and daylight in respect of ground floor accommodation at the rear of No 82.
5. The extension has a reasonably low profile, due to its shallow roof pitch and overall height of around 2.6 m. The above, together with the distance to the French windows considerably offsets the apparent bulk of the extension in the main outward views from No 82. As a result, although the extension is somewhat taller than the pre-existing boundary fencing, it does not appear as an especially obtrusive feature at the rear of No 82, nor has it caused the occupiers of that dwelling to experience a significantly greater sense of enclosure. Consequently, the extension has not caused a harmful reduction in the level of outlook enjoyed by the adjoining occupiers.
6. The rear elevations of No 82 and the host dwelling are approximately south-facing. Levels of daylight enjoyed at the rear of No 82 are unlikely to have been substantially affected by the extension during most of the day. This is because of the extension's relatively low profile, together with its location on the east side of No 82 and also having regard to the height of the pre-existing boundary fencing. Any reduction in daylight and increased overshadowing is likely to be limited to No 82's kitchen area and is only likely to be apparent for a short time during the morning. Therefore, the extension has not resulted in a harmful reduction in the levels of daylight enjoyed by the adjoining occupiers.
7. Accordingly, even though the SPD guidance has not been met, when assessed on its individual merits the extension has not caused unacceptable harm to the living conditions of occupiers of adjoining residential property. As the amenity of adjoining occupiers has been protected by offering an appropriate outlook and providing adequate light, the extension accords with criterion in Policy DM2 of the *Elmbridge Local Plan: Development Management Plan*. Furthermore, the creation of a high standard of amenity for existing users is consistent with the National Planning Policy Framework (the Framework).

Conditions

8. After seeking the views of both main parties, I shall impose a condition requiring the extension's masonry walls to be rendered and painted to match the finish of the external walls of the host dwelling, within a specified period. This is necessary so that the extension harmonises satisfactorily with the host dwelling and its surroundings, in the interests of the character and appearance of the area. The condition is drafted in the form set out below because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the implementation of the required works, because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the extension granted planning permission may only remain if the appellant complies with its requirements. Accordingly, in my view the requirements of the condition are both proportionate and reasonable.

Conclusion

9. The extension accords with the Development Plan and the Framework. Therefore, I conclude that the appeal should succeed on ground (a) and planning permission will be granted.

Formal Decision

10. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177 (5) of the 1990 Act for the development already carried out, namely the erection of a single storey rear extension on land at 81 Upper Farm Road, West Molesey, Surrey KT8 2QU referred to in the notice, subject to the condition in the Schedule below.

Stephen Hawkins

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within four months of the date of this decision the external masonry walls of the single storey extension hereby permitted are rendered and painted to match the finishes of the external walls of the dwelling, the extension shall be demolished and all of the resulting demolition materials shall be removed from the site.

Once the masonry walls of the extension have been rendered and painted to match the finishes of the external walls of the dwelling, they shall be maintained in such condition accordingly.

In the event of a legal challenge to this decision, the operation of the time limit specified in this condition will be suspended until that legal challenge has been finally determined.