



Appeal Decision

Site visit made on 30 October 2020

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/K3605/D/20/3255644

30 Manor Road South, Esher, KT10 0QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Craig Davis against the decision of Elmbridge Borough Council.
 - The application Ref 2020/0752, dated 20 March 2020, was refused by notice dated 16 June 2020.
 - The application sought planning permission for a single-storey rear extension and raised rear decking following partial demolition of existing house without complying with conditions attached to planning permission Ref 2018/3784, dated 14 December 2018, allowed at appeal Ref APP/K3605/D/19/3228679 dated 29th November 2019.
 - The conditions in dispute are No 1 which states that: Notwithstanding the works that have already been carried out, the development hereby permitted shall be carried out in accordance with the following approved plans and drawings: 1968-01; 1968-02A; 1968-03; 1968-04; 1968-05b; 1968-06D; 1968-07G; 1968-08a; 1968-09; 1968-10, and No 2 which states that: Prior to the first use of the top decking area hereby approved, obscured glass screens of 1.8 metres high from the top decking area floor level shall be erected on the southern and northern sides of the top decking area, from the extension along the depth of that top decking area, and thereafter be retained permanently in that position.
 - The reasons given for the conditions are: to provide certainty and ensure a form of development that does not cause harm to the living conditions of neighbouring properties; and, to ensure an adequate level of privacy for neighbouring properties.
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Decision

1. The appeal is allowed and planning permission is granted for a single-storey rear extension and raised rear decking following partial demolition of existing house at 30 Manor Road South, Esher, KT10 0QL in accordance with the application Ref 2020/0752 made on the 20 March 2020 without complying with conditions Nos 1 and 2 set out in planning permission Ref 2018/3784 allowed at appeal Ref APP/K3605/D/19/3228679 on 29th November 2019, but otherwise subject to the following conditions:
 - 1) Notwithstanding the works that have already been carried out, the development hereby permitted shall be carried out in accordance with the following approved plans and drawings: 1968-01; 1968-02A; 1968-03; 1968-04; 1968-05b; 1968-06D; 1968-07G; 1968-08a; 1968-09; 1968-10 as amended by approved drawings MA09, MA11, MA12 and MA13.

2) Prior to the first use of the top decking area hereby approved, timber boundary fencing of 1.8metres high from the top decking area floor level shall be erected on the southern and northern sides of the top decking area, and thereafter be retained permanently in that position.

Background and main issue

2. The extension, terrace and steps are completed, but the steps and terrace are almost the full width of the plot and as a result not in accordance with the approved plans. The applicant wishes to erect a timber fence to screen the terrace from both neighbours instead of an obscured glass one. At the time of my visit a timber fence had been constructed at the boundary with No 32, which appeared to be in accordance with the submitted plans, although it seems from the Officer's report it was not there at the time of the application. However, I have dealt with the appeal according to the details submitted as they were the basis on which the Authority determined the application. The main issue is the effect that varying the conditions regarding the screens would have upon the living conditions of occupants of 32 Manor Road, with particular regard to outlook.

Reasons

3. Condition 2 was necessary to ensure there would be no overlooking into the neighbours' property from the terrace which sits at a higher level than their gardens. Although I do not have the approved plans before me, my understanding is that the decking area and steps down from it were to be set in from the sides of the extension and therefore away from the boundary with neighbouring properties. Consequently, the screens would also have been set back from their boundaries.
4. Given that the terrace and steps now meet the boundaries with neighbouring properties, the potential for overlooking is greater and consequently so is the need for screening to protect the neighbours' privacy. The proposed 1.8 metre high wooden fence screens would be on the boundary with the neighbouring properties and extend beyond the terrace dropping down either side of the steps.
5. They would be significantly lower than the height of the roof of the extension and step down in line with the steps connecting the terrace to the garden below. They would be no higher than might be expected on a boundary and as such would not appear excessively high or dominant. The visual break resulting from their stepping down would further reduce any sense of dominance or overbearing impact as would their short length. Existing vegetation in the garden at No 32 reaches the same height as the proposed screen and would largely obscure views of it such that the difference in outlook from that property would not be significant.
6. As such the timber fence screening would not have an overbearing impact such that it would harm the living conditions of occupants of No 32. There is therefore no conflict with Policy DM2 of the Elmbridge Local Plan Development Management Plan (April 2015), the Design and Character Supplementary Planning Document (April 2012) and the National Planning Policy Framework (2019) which require proposals to protect local amenity and not have a negative impact on outlook.

Other Matters

7. I have had regard to the neighbour at No 28's concerns relating to outlook, overlooking and overshadowing. The effect of the proposal on the outlook from No 28 would be similar to the effect from No 32, which I have concluded is acceptable. The fence screen will prevent overlooking from the terrace into No 28's garden and house. Any overshadowing would be limited and only affect a small part of No 28's rear garden. I therefore concur with the Council that either no harm would occur, or that based on the evidence before me the level of harm would not be significant enough to warrant withholding planning permission.

Conditions

8. Condition 1 of the original consent was necessary to require compliance with the approved plans. As the development is acceptable but has not been carried out in accordance with them, it is necessary to impose a condition listing the plans that accord with what has been built. It is also necessary to provide certainty regarding the design of the proposed screens to ensure that the development that does not cause harm to the living conditions of neighbouring properties.

Conclusion

9. For the reasons given above I conclude that the appeal should be allowed.

P D Sedgwick

INSPECTOR