



Appeal Decision

Site Visit made on 15 March 2021

by Mr Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 April 2021

Appeal Ref: APP/Y3615/D/20/3263905

36 Underwood Avenue, Ash, Aldershot, GU12 6PP

- 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 Tahir Mahmood against the decision of Guildford Borough Council.
- The application Ref 20/P/01315, dated 6 August 2020, was refused by notice dated 22 September 2020.
- The development proposed is described as a rear ground floor 6.00 metre extension with side habitable space and addition of a door from front to side passage giving access to rear garden.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the appeal the appellant submitted an amended plan.¹ It shows an alternative shallow pitched roof, instead of a flat roof, for part of the proposed development. Amended plans seeking to overcome the Council's reasons for refusal should normally be the subject of a fresh planning application and the appeal process should not be used to evolve a scheme.² Having regard to the 'Wheatcroft Principles'³ I consider that the amended plan would materially alter the development and potentially prejudice the interests of those who should have been consulted on the changed development. I have therefore dealt with the appeal on the basis of the plans considered by the Council.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of No 34 Underwood Avenue, having regard to outlook and daylight, and on the living conditions of the occupiers of No 38 Underwood Avenue, having regard to outlook.

Reasons

4. Viewed from the road, the appeal property forms the left-hand half of a pair of two-storey, linked semi-detached houses. The right hand half is No 34 Underwood Avenue and on the other side of the appeal property is No 38 Underwood Avenue. These houses are typical of the residential development in the surrounding area and include ground floor habitable room windows and doors facing towards reasonably long and wide rear gardens.

¹ Included in a letter dated 17 December 2020, prepared by the appellant's agent

² Planning Inspectorate 'Procedural Guide Planning Appeals England', March 2021 – Annexe M.1.1 and M.2.1

³ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

5. The proposed development includes a flat roof single storey rear extension. It would be 3m high, 7.4m wide and 6m in depth. On one side it would be positioned next to the rear garden boundary fence with No 34, with a 0.1m gap, and on the other side there would be a 1m gap to the rear garden boundary fence with No 38. Both of these timber close boarded boundary fences are about 1.8m high.
6. At my site visit I saw that the rear elevation of No 34 has a single ground floor French door with two single pane side windows to a habitable room next to the boundary fence. A majority of the vertical side elevation of the rear extension would be screened by the boundary fence. However, a significant part would nonetheless project a substantial distance in height above the fence (by about 1.2m) and would maintain this height for a substantial distance (6m) very close next to, and along, this boundary. The scale and massing of this part of the extension would therefore be overly dominant and overbearing and as a result unduly restrict views out of, and light into, this habitable room via this door and these windows. No 34 also has a double pane window on the other side of the rear elevation of this house. However, it would therefore be appreciably further away from the extension and as a result would not unduly restrict views out of, or light into, this window.
7. I saw that the rear elevation of No 38 also has a similar French door and windows, albeit arranged differently. However, the facing side elevation of the extension would be set back 1m inside the boundary fence on the appeal property side. In addition, the position of this door and these windows are well set back from the boundary fence by the width of the single storey 'link', to the side of No 38, between these respective properties. Despite the height and depth of the extension, it would therefore be significantly further away from this door and these windows. As a result, it would not be overly dominant or overbearing or unduly restrict views from this door and these windows.
8. Considering the above, the extension would harm the living conditions of the occupiers of No 34, having regard to outlook and daylight. I give substantial weight to this harm. It would not harm the living conditions of the occupiers of No 38, having regard to outlook. Consequently, the proposed development would not accord with saved Policies G1 and G5 of the Guildford Borough Local Plan, January 2003 or with Policy D1 of the Guildford Borough Local Plan: strategy and sites, April 2019. These policies include that the scale and height of development should protect the amenity of occupants of buildings, including in terms of daylight, and achieve high quality design to promote healthy living.
9. It would conflict with the Council's Residential Extensions and Alterations supplementary planning document, 2018 (SPD). Section 2.2 of the SPD includes that development should not result in any significant loss of amenity by being overbearing or due to loss of natural daylight. It would also conflict with the National Planning Policy Framework paragraphs 117 and 127. These include that development should ensure healthy living conditions and create places that promote well-being, with a high standard of amenity for existing residents.

Other Matters

10. The proposed development would enlarge and improve the living accommodation at the appeal property for family occupation, including with external side access to the rear garden. These would be modest benefits and as

such I give them limited weight. These considerations would not therefore outweigh the harm that I have identified in the main issue above.

11. I acknowledge that a satisfactory size of rear garden would be retained at the appeal property. There would therefore be no harm to the living conditions of the existing or future occupiers of the appeal property by virtue of the resulting reduction in rear garden space taken up by the proposed development. The absence of harm in this regard is a neutral factor in my decision.
12. I appreciate that the existing occupiers of No 34 and No 38 did not object to the proposed development. However, the absence of public objection by these individuals does not mean the absence of planning harm and I have, in any event, determined this appeal on its individual planning merits.

Conclusion

13. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR