



Appeal Decision

Site visit made on 13 May 2021

by R. Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2021.

Appeal Ref: APP/K3605/D/21/3269079

42a The Roundway, Claygate, Surrey KT10 0DW

- 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 Ms Samantha Stewart against the decision of Elmbridge Borough Council.
 - The application Ref 2020/2070, dated 5 November 2020, was refused by notice dated 6 January 2021.
 - The development proposed is a single-storey rear extension.
-

Decision

1. The appeal is allowed and planning permission is granted for a single-storey rear extension at 42a The Roundway, Claygate, Surrey KT10 0DW in accordance with the terms of the application, Ref 2020/2070, dated 5 November 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 3693684-001 to 006; 3693684-011 to 017; and 3693684-020.

Application for costs

2. An application for costs was made by Ms Samantha Stewart against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have taken the description of development in the banner heading above from the Council's decision notice because it more accurately describes the proposal before me than part 3 of the planning application form. I have, however, removed 'retrospective' from the description as this is not an act of development.
4. I saw from my site visit that the single-storey rear extension has been built and my decision is made on this basis.

Main Issue

5. The main issue in this case is the effect of the single-storey rear extension on the living conditions of the neighbours at No.42 The Roundway with regard outlook and daylight.

Reasons

6. No.42a The Roundway (No.42a) is a two-storey mid terrace house. In June 2019, the Council determined that Prior Approval was not required for a single-storey rear extension measuring 3.5m in depth and a maximum 2.74m in height (ref. 2019/1368). This is a fallback position to which I afford significant weight (*the fallback scheme*) because there is a real prospect that it could be implemented should this appeal fail.
7. The single-storey rear extension that has been built is around 3.62m in depth and 2.85m in height to the eaves of the flat roof. There is a glazed lantern rooflight located centrally within the roof that is an additional 0.65m in height. On the Council's own figures, the extension would be only 0.12m greater in depth and 0.3m greater in height than the fallback scheme.
8. The Council's *Design and Character Supplementary Planning Document (2012)* (SPD) uses the 45-degree rule as a 'useful tool' in assessing the effect of new development on the amenity of neighbours. The guidance is that a single storey extension should not impinge on a 45-degree line from the outer edge of the neighbours nearest habitable window at a distance of less than 8m. A single storey rear extension to No.42a would breach this 45-degree line from the closest windows of its neighbour at No.42 The Roundway (No.42) at a depth, as accepted by the appellant, of around 1m. Given the depth of the extension now built, of 3.62m, there is a clear technical breach of the SPD guidance.
9. However, the standard must be set in context and the SPD (in its *Companion Guide: Home Extensions*) states that each application should be treated on its merits. In this case, the fallback scheme has a depth of 3.5m from the existing rear elevation of No.42a and therefore would itself breach the 45-degree line. The depth of the rear extension would increase by only 0.12m over the fallback scheme and this would not result in a perceptible difference in daylight to the conservatory windows on the rear elevation of adjoining No.42. The orientation of the extension to the north of No.42 also means there is unlikely to be a significant loss of light.
10. The fallback scheme was designed with a flat roof with a parapet upstand on the party wall with the adjoining neighbours at No.42 and No.44 The Roundway. The height to the eaves was 2.55m and therefore, without allowing for the upstands, the extension is now around 0.3m higher when measured from the lower ground patio level (as shown on the submitted drawings). The rear building line of the extension is set slightly forward of the conservatory of No.42 and this increase in height would therefore be discernible. Given, however, the very minimal increase in height I am not persuaded that it would appear overbearing when viewed from either the rear windows of No.42 or its garden.
11. Consequently, the ground floor rear extension would not cause harm to the living conditions of the neighbours at No.42. Although there would be a technical breach of the SPD guidance in respect of the 45-degree line, there would be no conflict with Policy CS17 of the Elmbridge Core Strategy (2011) or Policy DM2 of the Elmbridge Local Plan Development Management Plan (2015) which, amongst other things, require proposals to protect amenity and offer appropriate outlook and adequate daylight, sunlight.

Other Matters

12. As described above, the single storey rear extension would not significantly change the overall scale and form of the fallback scheme. Whilst there would be a noticeable increase in height across the full width of No.42a, the extension does not overly dominate or appear an incongruous addition to the rear elevation and has been finished in brickwork and windows to match the existing. I therefore find it causes no harm to the character and appearance of No.42a or the wider area.
13. Numerous third parties have raised concerns regarding the construction of the extension on the party wall of No.42 and potential encroachment. Concerns have also been raised in respect of the quality of the construction, structural problems, and restrictive covenants associated with the appeal property. These are all either civil or legal matters or fall within the scope of Building Regulations. They are not therefore for me to consider in the determination of this planning appeal.

Conditions

14. Because the ground floor rear extension has already been built, I do not consider it necessary to include a condition requiring the materials used in the construction of the external surfaces to match those used in the existing building, as suggested by the Council. However, in the interests of clarity and to provide certainty, I do consider it necessary to impose a condition that specifies the approved drawings.

Conclusion

15. For the reasons given above, the appeal is allowed.

R. Jones

INSPECTOR