The Planning Inspectorate

Appeal Decision

Site visit made on 27 August 2021

by Julie Dale Clark BA(Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/K3605/D/21/3273583
6 Green Lane, Hersham, Walton-On-Thames KT12 5HD

- 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 Aimi & Chris Wells against the decision of Elmbridge Borough Council.
- The application Ref 2021/0098, dated 12 January 2021, was refused by notice dated 7 April 2021.
- The development proposed is ground floor side extension and first floor side and rear extension.

Decision

The appeal is allowed and planning permission is granted for a ground floor side extension and first floor side and rear extension at 6 Green Lane, Hersham, Walton-On-Thames in accordance with the terms of the application, Ref 2021/0098, dated 12 January 2021, subject to the following conditions:

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

3) The development hereby permitted shall be carried out in accordance with the following approved plans: -

- *Drawing Nos: 0135.GRN.001; 0135.GRN.010 Rev A; 0135.GRN.011; 0135.GRN.100 Rev B; & 0135.GRN.101.*

Main Issue

1. I consider that the main issue is the effect of the first floor rear extension on the living conditions of the occupiers of No 4 Green Lane.

Reasons

2. The appeal site is a narrow detached house in a row of similar dwellings. The proposal would include a single storey extension on the side of the house, closest to the boundary with No 8 Green Lane and a first floor rear extension across the width of the house, part of which would be close to the boundary with No 4 Green Lane.

3. Local Plan Policy DM2[1] seeks to protect the amenity of adjoining and potential occupiers and users, amongst other things, by being designed to offer an appropriate outlook and provide adequate daylight, sunlight and privacy. The Council's design SPD[2] advises on assessing development proposals and in terms of amenity, it states the importance of the relationship between new development to other buildings, including existing dwellings outside the site. Care should be taken to ensure the development is neighbourly and does not have a negative effect on light and outlook from windows and amenity spaces. The SPD introduces the *45 degree rule* and illustrates examples of this. The companion guide to the SPD for house extensions[3] also refers to the *45 degree rule* with regard to daylight and sunlight.

4. Whilst the main issue with regard to this proposal is the potential harm that could be caused by the first floor extension close to the boundary with No 4, it would not breach the advised *45 degree rule*. However, the proposal has been refused on the basis of its effect on No 4s amenity space. The rear gardens to both No 6 and its neighbour No 4 are narrow but they are fairly long. No 6 lies to the south of No 4 so notwithstanding the *45 degree rule*, some overshadowing may arise to a small area of amenity space close to the house. However, the rear projection would be modest and any effect would be minimal also it would allow the only bathroom in the house to be relocated from the ground floor to the first floor.

5. I have considered the conditions suggested by the Council in the light of the Planning Practice Guidance[4] and agree that a condition requiring the materials to be used in the construction of the development should match the existing house is necessary in order to ensure a satisfactory appearance. For the avoidance of doubt and in the interests of proper planning it is also necessary to ensure that the proposal is constructed in accordance with the approved plans. I shall therefore impose a condition.

6. The Council also suggest a condition requiring the first floor side window to be obscurely glazed and non-opening above an internal floor height of 1.7 metres. However, the only new window would be to a bathroom and it would face the gable wall of No 8 Green Lane. Whilst a bathroom window is likely to be obscurely glazed in any event, I see no reason to place a restriction on it as any outlook from this window could not be detrimental to the privacy or general amenity of the neighbours. I shall not therefore impose this condition.

7. I have considered all other matters raised including the concerns raised by the occupiers of No 4 and the National Planning Policy Framework[5] but none of these alters my conclusion. I conclude that the proposal would not have a harmful effect on the living conditions of the occupiers of No 4 Green Lane, it would not conflict with the policies or guidance referred to above. The appeal therefore succeeds.

J D Clark
INSPECTOR

[1] Elmbridge Borough Council Elmbridge Local Plan Development Management Plan, April 2015.
[2] Elmbridge Borough Council Elmbridge Local Plan Design and Character Supplementary Planning Document, April 2012 (SPD).
[3] Elmbridge Borough Council Design and Character Supplementary Planning Document Companion Guide: Home Extensions, April 2012
[4] Planning Practice Guidance, Published 6 March 2014 – Last Updated 23 July 2019.
[5] Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021.