



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/21/3275136

15 Mulberry Close, Weybridge KT13 8RA

- 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 Ahmed against the decision of Elmbridge Borough Council.
 - The application Ref 2021/0652, dated 23 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is single storey rear and side extension.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider that the main issue is the effect of the extension on the living conditions of the occupiers of No 16 Mulberry Close.

Reasons

3. The appeal site is a semi-detached house with a rear conservatory. The conservatory would be demolished and a single storey extension would replace it. This would wrap around the side of the house, adjacent to the boundary with No 14. The rear extension would be close to the boundary with the attached semi, No 16. The main impact of the proposal would be to the occupiers of No 16.
4. Whilst the existing conservatory is close to the boundary with No 16 and the proposal would extend about the same distance, the conservatory is lower in height and is of a more lightweight structure. The extension would appear as a solid brick wall close to the boundary of No 16. The gardens of both houses face south-east and so benefit from sunlight most of the day. The height of the proposed extension may result in some loss of light during the early morning but its main effect would be its overbearing impact due to the appearance of the extension so close to the shared boundary.
5. Local Plan Policy DM2¹ 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.

¹ Elmbridge Borough Council Elmbridge Local Plan Development Management Plan, April 2015.

6. The Council's design SPD² 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 extensions³ also refers to the *45 degree rule* with regard to daylight and sunlight.
7. Whilst some loss of daylight/sunlight to the occupiers of No 16 would occur, this would be for a relatively short period in the mornings. The orientation of the houses would mean that No 16 would continue to benefit from sunlight for most of the day. However, the impact of the extension as a prominent feature very close to the boundary would have an overbearing effect and generally represent a poor outlook. In this respect, the proposal would conflict with Policy DM2 and the advice in the SPD and its companion guide. In particular the rear projection would breach the *45 degree rule*.
8. The appellant refers to the fallback position of what could be built as permitted development⁴. Whilst it is not the purpose of a Section 78 appeal to determine what would be permitted development, it would appear that an extension of this size, in terms of rear projection, would still be subject to the Council's prior approval following consultation with neighbouring properties. I note that no objections have been received from the occupier of 16 but given that the appellant has not applied for prior approval and I am not in a position to pre-empt what the Council's decision may be, I have afforded this limited weight.
9. I have also considered the existence of the existing conservatory and the erection of boundary fencing as well as all other matters raised including the National Planning Policy Framework⁵ but none of these alters my conclusion.
10. I conclude that the design, size and proximity of the rear extension to the boundary with No 16 would have a harmful effect on the living conditions of the occupiers of No 16, it would conflict with the policy and guidance referred to above and therefore the appeal fails.

J D Clark

INSPECTOR

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 The Town and Country Planning (General Permitted Development)(England) Order 2015, As Amended.

⁵ Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021.