

Appeal Decision

Site visit made on 28 October 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI
an Inspector appointed by the Secretary of State

Decision date: 18 November 2021

Appeal Ref: APP/K3605/D/21/3282354

1 Compton Close, Esher KT10 9EF

- 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 & Mrs Joe Steidl against the decision of Elmbridge Borough Council.
 - The application, Ref. 2021/0505, dated 12 February 2021 was refused by notice dated 30 June 2021.
 - The development proposed is the addition of a first floor over the existing bungalow and single storey extensions and the replacement of an outbuilding and entrance gates.
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Decision

1. The appeal is allowed and planning permission is granted for the addition of a first floor over the existing bungalow and single storey extensions and the replacement of an outbuilding and entrance gates at 1 Compton Close, Esher in accordance with the terms of the application, Ref. 2021/0505, dated 12 February 2021 and subject to the following conditions:
 - 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
 - 2) The development hereby approved shall be carried out in accordance with the following approved plans including annotations: Drawing No. Series HA/2119/: Plan Nos. 1,2,3,4 & 5: All plans are Revision 1b and dated 25 June 2021.

Main Issue

2. The main issue is the effect of the proposed first floor on the living conditions for the occupiers of No. 9 Brendon Close in terms of light and outlook.

Reasons

3. The appraisal in the Planning Officer's report includes an assessment of the scheme's effect on neighbouring properties, including any impact on Nos. 42, 44 & 46 Milbourne Lane, No. 2 Compton Close and No. 8 Brendon Close. For the reasons explained in the report and taking into account the representation from the occupiers of No. 8 Brendon Close, I agree with the Council's conclusion that any effect of the appeal proposal on these dwellings would not warrant the refusal of permission.
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4. However, the Council remains of the view that the proposal would be unacceptable because of the effect on the light and outlook currently enjoyed by the occupiers of No. 9 Brendon Close. In this regard, reference is made to the guidance in the Council's Companion Guide: Home Extensions 2012 and that the proposed first floor would infringe its 45 degree angle / 15m distance test in the outlook from the kitchen window of No. 9.
5. However, from my visit to the site I am not convinced that this is the appropriate yardstick in this particular relationship between the two buildings, a context which can only be fully understood on the site rather than by what the appellants describe as a 'mechanistic' application of the guidance. Far more informative is Figure 3 in the grounds of appeal, which compares the profiles of the existing and proposed buildings.
6. From this it is clear that the view would be of a hipped roof starting with its eaves positioned almost 3m beyond the appeal site boundary. Any perception of increased height and mass would be slight and I do not consider that the increase in built form above the mature boundary hedge and sloping away from the rear windows and garden of No. 9 Brendon Close could reasonably be regarded as 'overbearing'. This term is more aptly used when a building occupies a large part of the sky from the vantage point and creates an undue sense of enclosure. This would clearly not be the case here.
7. The Council's objection as regards loss of light merits even less credence. No. 9 is due south of the appeal building and a simple sketch of the sun's trajectory on the submitted plan would have demonstrated to officers that there would be a zero, or at worst negligible, effect on the light currently received by this neighbour. There is no actual analysis in the officer's report to support the reference to a loss of light in the Notice of Refusal. And given this, it is unreasonable for the appellant to have been required to commission a Daylight, Sunlight and Overshadowing Assessment with reference to BRE guidelines to confirm the absence of any adverse effect.
8. Overall, I conclude that the living conditions for the occupiers of No. 9 Brendon Close in terms of light and outlook would not be harmed by the appeal proposal. Accordingly, there would be no harmful conflict with Policy DM2 of the Elmbridge Local Plan Development Management Plan 2015 or with paragraph 130f) in the National Planning Policy Framework 2021.
9. I shall therefore allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans is necessary for the avoidance of doubt and is in the interests of proper planning.

Martin Andrews

INSPECTOR