



Appeal Decision

Site visit undertaken on 2 March 2022

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 4TH APRIL 2022

Appeal Ref: APP/Z5630/D/21/3288061

37 Buxton Drive, New Malden KT3 3UX

- 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 Peter Kandalaft against the decision of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/01973/HOU, dated 17 June 2021, was refused by notice dated 8 September 2021.
 - The development proposed is described as the demolition of existing rear single storey extension - to rebuild of new Single storey rear extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the applicant submitted a Daylight Sunlight Report¹ in order to provide further clarification with regards to Reason for Refusal No1 which concerns loss of light. In accordance with the 'Wheatcroft Principles',² this further information submitted by the applicant provides additional clarification to a main issue and does not result in changes to the scheme. Whilst the Council have not provided further comment on this new information in their statement, I find that the acceptance of this further information would be appropriate and not deprive those who should have been consulted or the opportunity of such consultation. As such, I will accept this further information and will base my decision upon it.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the existing and future occupiers of No.35 Buxton Drive as a result of access to light, overshadowing, and sense of enclosure.

Reasons

4. The appeal property is a semi-detached dwelling which appears to date from the early - mid twentieth century. To the rear of the dwelling is a single storey rear extension with flat roof which is approximately 3 metres deep and has an eaves height of 3.3 metres. Due to the slope of the ground level at this point the rear extension is quite tall and is erected on a plinth which requires 3 steps to access the rear door of the extension. The neighbouring property at No.35 is the remaining half of the semi-detached dwelling. The property does not

¹ Written by Model Environments, Dated 29th November 2021, Rev A

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

- contain any rear extension with the garden containing an outbuilding along the opposite boundary in close proximity to the rear face along with areas laid to grass and mature vegetation.
5. Policy DM10 of the Royal Borough of Kingston Upon Thames Core Strategy 2012 (CS) seeks that new development have regard to the amenities of occupants and neighbours, including outlook, sunlight/daylight, and the avoidance of visual intrusion, amongst others.
 6. In firstly looking at daylight and sunlight and overshadowing towards habitable rooms and the rear garden of the neighbouring dwelling at No.35, the applicant's numerical assessment of daylight/sunlight impact and overshadowing is based on the Building Research Establishment (BRE) guide. This guidance is an appropriate basis for assessment of potential impacts to daylight. The BRE guidance is not itself policy, and acknowledges that the criterion and guidance are to be applied flexibly and to help rather than constrain design. The numerical guidelines and technical advice in the BRE publication are purely advisory and should be considered in the context of other site layout constraints.
 7. The BRE guidance details The Vertical Sky Component (VSC) which is a measure of the amount of light at the window wall. Target values of 27% VSC and a reduction of no more than 20% of the existing VSC are given: if these are not met, occupants of the existing building will notice the reduction in the amount of skylight. The impact on daylight distribution can be measured by plotting the 'No Sky Line' for an individual room. The area beyond the No Sky Line will usually look dark and gloomy, and an increase in this by 20% or more will be noticeable to occupants.
 8. The submitted daylight/sunlight report and daylight distribution test undertakes an analysis of each of the windows to the rear of No.35, labelled as C, D and E. According to the applicant's Daylight/Sunlight report the VSC figure for each of these windows is above the recommended VSC, however it would be unlikely that the further reduction in light to these windows would be very noticeable given that the loss is below a 20% reduction. Taking this into account, whilst I agree that there will be slight a loss of light to the windows of the neighbouring dwelling at No.35, the loss would not be material enough to cause adverse detriment to the current and future occupiers.
 9. With regards to access overshadowing, The BRE guide recommends testing for sunlight access on the 21st of March, and states that a garden or outdoor amenity space should continue to receive 2+ hours of sunlight across at least 50% of its area on this date, or if this condition is not met, that the area receiving 2+ sunlight hours not be reduced to less than 0.8 times its former size. No 35 currently receives 84% sunlight, with this reducing to 83% as a result of the proposed extension. Whilst there would be a slight increase in overshadowing, this would not be material enough to cause adverse detriment to the neighbouring property.
 10. Turning to the assessment around the visual impact of the proposal towards living conditions, the area where the extension is located would be along the property boundary with No.35. The proposed wall would be 0.6 metres taller than the existing wall along the boundary and would be 2.5 metres deeper to reach a length of 5.5 metres along the shared boundary. Whilst I appreciate that the unusual height of the single storey extension is caused by the change

in topography, the resultant extension with the increased depth and height combined with the sheer blank wall would be considerable and have a domineering presence to the rear garden area of the neighbouring dwelling at No.35. As a result the proposed extension would be unneighbourly and would cause material detriment to the living conditions enjoyed by the neighbouring dwelling at No.35.

11. I note that the applicant's Statement of Case (SoC) notes two planning decisions³ for rear extensions that were approved by the council for extensions of 6 metres along the property boundary. Whilst I have not been given any plans which illustrate the extensions, it is unclear as to whether the height of the extension is similar to the appeal proposal. The imagery provided in the SoC does not appear to show the number of steps and plinth needed in order to mitigate the slope of the land. Based on the evidence before me, I am not persuaded that the example decisions are analogous to the considerations and site constraints of the appeal site and therefore do not justify the appropriateness of this scheme.
12. Consequently, and in conclusion of this matter, whilst I agree with the applicant that there is no material harm caused by overshadowing or loss of light, the proposal would cause adverse detriment to the living conditions of the neighbouring property as a result of sense of enclosure and overbearingness of the proposal towards No.35 and contrary to LP Policy DM10 as described previously.

Conclusions

13. Whilst I have sided with the applicant with regards to matters involving overshadowing and loss of light, when considering the development plan as a whole, this would not be sufficient to overcome the effect of the scheme upon the living conditions of the neighbouring resident as a result of sense of enclosure and overbearingness.
14. For this reason, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal be dismissed.

J Somers

INSPECTOR

³ Council Ref: 18/14038/HOU: 9 Revell Road and 18/14523/HOU: 19 Darley Way