



Appeal Decision

Site visit made on 24 May 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/K3605/W/22/3312333

39 and 39A Wolsey Road, East Molesey, Surrey KT8 9EN

- 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 Mrs J Macgregor against the decision of Elmbridge Borough Council.
 - The application Ref 2022/1933, dated 21 June 2022, was refused by notice dated 10 November 2022.
 - The development proposed is described as “internal alterations to first floor flat and extension at first floor level within new roof space over existing ground floor”.
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Decision

1. The appeal is allowed and planning permission is granted for first floor side and rear extension, alterations to fenestration, internal alterations to first floor flat (39A) and amendments to single-storey front and rear extensions of ground floor flat (39) at 39 and 39A Wolsey Road, East Molesey, Surrey KT8 9EN in accordance with the terms of the application, Ref 2022/1933, dated 21 June 2022, and the plans submitted with it, subject to the conditions in the schedule at the end of the decision.

Preliminary Matters

2. The address given on the planning application form is No 39A Wolsey Road. However, the appeal relates to both the ground and first floor flats at Nos 39 and 39A Wolsey Road, so I have changed the address accordingly.
3. I have amended the description of development in my decision above for clarity because the description on the planning application form does not include all the elements of the development proposed.
4. Whilst I was carrying out my site visit, I also viewed the appeal site from rear ground and first floor windows and the rear garden of the neighbouring property at 37 Wolsey Road.
5. There is an extant permission for a rear/side extension at the appeal site¹, construction of which has started.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of the occupiers of 37 Wolsey Road, with particular reference to outlook.

¹ Reference 2019/1738

Reasons

7. The proposed extension would be separated from No 37 Wolsey Road by a modest gap. This, in combination with the pitch of the proposed roof away from the boundary towards the ridge line, would lessen the visibility of the extension from the neighbouring garden and rear-facing windows. The slight step-down in height of the rear-most element of the extension, the hipped rear-facing roof form and the dormer would together give the impression of reducing mass towards the back of the scheme. This would also add articulation to, and thereby reduce the dominance of, the pitched roof despite its increased height.
8. The eaves height of the back section of the extension would be little higher than the boundary wall so would have limited impact. The eaves height of the front section would be higher but only part of this would be visible from neighbouring habitable room windows. The main outlook from No 37 is towards the rear gardens of Nos 37 and 39/39A, so the eye would be drawn forwards past the lower section of the extension to the extensive gardens beyond. My attention has been drawn to national guidance on eaves heights, but this guidance does not relate directly to the determination of planning applications or appeals. In any case, the circumstances of each application and appeal are different and I have considered this proposal on its merits.
9. The depth of the extension would not be disproportionate given the length of the host and neighbouring plots. The breadth and depth of No 37's garden also allows ample space for users to enjoy it without being close to the new extension, even with the slight increase in the density of development due to the appeal proposal. This spaciousness and the shallow depth of No 37's side projection mean any tunnelling effect would be limited. The use of matching materials and design details would further reduce the visual impact of the proposal and could be secured by condition. Taking all this together, the extension would not be unacceptably intrusive or overbearing when viewed from No 37, even without additional planting to soften the effect along the boundary. The alleged inaccuracies in the appellant's appeal documents do not lead me to a different conclusion.
10. I have considered the argument that the effect of the appeal proposal on outlook would be worse than that of the permitted scheme. I take from the information before me that the principal differences in the appeal proposal are the inclusion of a front element, an increase in the ridge and eaves heights of the rear extension, an increase and changed position of its pitched roof, and a slight reduction in depth to the rear. I accept that the changes in roof design would result in a different outlook for the occupiers of No 37 compared to the permitted extension. However, for the reasons set out above, these differences would not have a harmful effect. The reduction in the depth of the extension would, if anything, lessen the visual impact of the proposal compared to the permitted scheme.
11. For the above reasons, I conclude the proposed development would not harm the living conditions of the occupiers of 37 Wolsey Road, with particular reference to outlook. Accordingly, I find no conflict with Policy DM2 of the Elmbridge Local Plan Development Management Plan which, amongst other aspects, requires development to protect the amenity of adjoining occupiers and be designed to offer an appropriate outlook. The proposal would also

accord with the National Planning Policy Framework (the Framework) in relation to providing a high standard of amenity for existing users.

Other Matters

12. The East Molesey Kent Town Conservation Area (CA) comprises an area fronting the south side of the River Thames, a small commercial centre around Bridge Road and several residential streets. The significance of the CA derives mainly from the grid pattern and width of the residential streets with their many traditional villas set in spacious plots, and the contrast with the narrow lanes nearer the river. The appeal site contributes to this significance as part of a notable group of imposing houses in Wolsey Road. The front-facing gable would be the most visible part of the proposed extension when viewed from the street. The front building line, scale and style would be comparable to the side extension to No 41, which would increase the symmetry of the semi-detached pair while remaining subservient. There would be little effect on the spacious appearance of the appeal site or neighbouring plots. Materials and details would match the existing building. Overall, I consider the proposed extension would have a neutral effect on the significance of the CA, whose character and appearance would be preserved.
13. My attention has been drawn to Planning Policy Statement 5. That document has been superseded by the Framework and, for the above reasons, I am satisfied the proposal would not conflict with the Framework where it covers heritage assets. In addition, in my judgement there is no reason to disagree with the Council's conclusion about the effect of the proposal on No 39 Wolsey Road, even if the building is a non-designated heritage asset.
14. I note the pre-application advice that was provided although I am not aware of all the information available to the Council at that time. Be that as it may, and notwithstanding any public discussion at the time the Council took its decision, I have considered the appeal proposal on its merits based on the evidence before me. The particular circumstances relating to the appeal proposal would be unlikely to be repeated elsewhere, so concerns about precedent are not a significant consideration. I accept that No 39 has undergone past alterations, but any questions about the lawfulness of such works are not within my remit in considering this appeal.
15. I have considered the matter of the 45-degree test for impacts on neighbouring daylight and sunlight. Relative to the host building, the proposed extension would be seen as single storey, notwithstanding that the ridge height allows rooms in the roof at first floor level. Taking account of guidance in the Council's Home Extensions Companion Guide, the available evidence leads me to conclude the proposal would pass the 45-degree test. I therefore agree with the Council's conclusion on this point. The circumstances on the other side of the semi-detached pair are different so are not directly comparable.
16. The Council is satisfied in relation to flood risk and parking and I see no reason to disagree with these conclusions. Compliance with the development plan in these respects is a neutral factor.
17. Obscured glazing and restricted opening for the rooflights in the proposed extension would safeguard the privacy of neighbouring occupiers and can be secured by condition. The impacts of the proposal on the Ash Tree that is the subject of a Tree Preservation Order (TPO) can also be controlled by condition.

Conditions

18. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
19. A pre-commencement condition requiring a pre-commencement meeting between a suitably qualified arboriculturist, representative from the Council and site manager is necessary to ensure site operatives are aware of the agreed working procedures and the approved tree protection measures are correctly installed before work begins. This and the other conditions relating to trees are necessary to mitigate risks to retained trees, including the TPO Ash, and to ensure appropriate replacement tree planting should harm occur.
20. The condition requiring use of matching external materials is necessary to integrate the appearance of the proposed extension with that of the existing building. The condition to require obscured glazing and restricted opening of the first floor rooflights is necessary to protect the privacy of neighbouring occupiers.

Conclusion

21. For the above reasons, having had regard to the development plan as a whole, the Framework and all other matters raised, I conclude the appeal should be allowed.

C Carpenter INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P-0209 Proposed Site Plan, P-0122 Proposed Ground Floor Plan, P-0223 Proposed First Floor Plan, P-0231 Proposed Roof Plan, P-0232 Proposed Side & Rear Elevations, P-0233 Proposed Front Elevation, 0301 Sections, 0302 Plan showing 45 degree line.
- 3) No development including groundworks and demolition shall take place and no equipment, machinery or materials, other than those relating to tree protection measures, shall be brought onto the site for the purposes of the development until a pre-commencement meeting has been held on site and attended by a suitably qualified arboriculturist, representative from the Local Planning Authority and site manager/foreman. The site visit shall ensure operatives are aware of the agreed working procedures and the precise position of the approved tree protection measures and/or that all tree protection measure have been installed in accordance with the approved tree protection plan (titled 39 Wolsey Road Tree Protection Plan, by AFA Consulting, reference Figure 2 – TPP, dated 1 July 2021) prior to commencement of construction works.

- 4) After the agreed tree protection measures have been installed in accordance with the approved plans, all tree protection measures shall be maintained for the course of the development works. The development thereafter shall be implemented in strict accordance with the approved details and method statement contained in the Arboricultural Report: Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement & Tree Protection Plan by AFA Consulting dated 29 June 2021.
- 5) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed and the following shall have effect until the expiration of 5 years from the first occupation of the proposed development:
 - (a) No retained tree or hedge shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning shall be carried out in accordance with British Standard 3988: 2010 (tree work) and in accordance with any approved supplied arboricultural information.
 - (b) If any retained tree or hedge is removed, uprooted or destroyed or dies, another tree or hedge of similar size and species shall be planted at the same place, in the next available planting season or sooner.
- 6) The materials used in the external surfaces of the extension hereby permitted shall match those used in the existing building.
- 7) The first-floor extension hereby permitted shall not be occupied until the rooflights on the side (east) elevation shown on plan No P-0232 have been fitted with obscured glazing equivalent to level three obscurity as shown on the Pilkington textured glass privacy levels and no part of those rooflights that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. The rooflights shall be permanently retained in that condition thereafter.