

Appeal Decision

Site visit made on 5 September 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2024

Appeal Ref: APP/D3640/W/24/3342790

54 Lime Avenue, Camberley, Surrey GU15 2BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Mandy Youds against the decision of Surrey Heath Borough Council.
 - The application Ref is 23/1006/PMR.
 - The application sought planning permission for: "Erection of first floor side and single storey ground floor extensions to incorporate a balcony above the new single storey rear extension. Alterations to the first floor rear elevation to include new doors leading to the new balcony" without complying with a condition attached to planning permission Ref 22/0428/FFU, dated 19 August 2022.
 - The condition in dispute is No 4 which states that: "Prior to the first occupation of the development hereby approved, the balcony screen as illustrated on drawing D2612-05 received 28/04/2022 shall to the eastern face be designed with laser cut steel and stand at a minimum height of 1.8m, and be retained for the lifetime of the development."
 - The reason given for the condition is: "In the interests of the amenities enjoyed by neighbouring residents and to accord with the objectives of Policy DM9 of the Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework."
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Decision

1. The appeal is allowed and planning permission is granted for "Erection of first floor side and single storey ground floor extensions to incorporate a balcony above the new single storey rear extension. Alterations to the first floor rear elevation to include new doors leading to the new balcony" at 54 Lime Avenue, Camberley, Surrey GU15 2BQ in accordance with the application Ref 23/1006/PMR, without compliance with condition numbers 1 and 4 previously imposed on planning permission Ref 22/0428/FFU dated 19 August 2022 and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with drawing Nos D2612-01, D2612-02, D2612-03, D2612-04 and D2612-05.

- 2) The building works hereby approved shall be constructed in external fascia materials to match those of the existing building.

Main Issue

2. The main issue is the effect that removing the condition would have on the living conditions of the occupiers of 52 Lime Avenue, with particular regard to privacy.

Reasons

3. The proposed balcony, which has yet to be built, would occupy the part of the flat roof of the extension that is directly outside the new French doors in the master bedroom of the appeal premises. The eastern face of the balcony would be situated between the French doors and the existing master bedroom window. The balcony would therefore be set in from the eastern end of the extension, which is itself set in from the boundary with No 52.
4. This means the primary aspect from the balcony would be across the garden of the host dwelling, with only oblique sight of part of the rear section of No 52's garden. No 54's garden is relatively wide, so the eye would principally be drawn to that rather than to the space next door. The extension to No 52, which was under construction at the time of my visit, will further limit the proportion of that house's rear garden that could be seen from the new balcony. This would be the case even from the far end of the balcony, which would provide a more open view than from No 54's rear upstairs windows.
5. I recognise the rear section of No 52's garden could be used for sitting out and play, and that this section could be used more frequently because of the new extension to that house. However, No 52's garden is also relatively wide so the area seen from No 54's balcony would not be the only space available for day-to-day activity. Some degree of overlooking of gardens in a suburban area is usual. Overall, I find the extent of actual and perceived overlooking from the new balcony would not be so great as to restrict reasonable use of No 52's garden, including by families with children.
6. The planting along the border between the houses is mature and provides a relatively high degree of additional screening along the full length of the gardens, notwithstanding that it decreases in height towards the rear. I acknowledge that, if this planting were removed completely, overlooking of the neighbouring garden from the balcony would increase. However, I do not consider the likelihood of this occurring to be high. Moreover, even if the border planting were partly removed, the level of overlooking would not be so great as to have a significant adverse effect on the privacy of neighbouring occupiers for the reasons given.
7. For the above reasons, I conclude that removing the condition would not have a harmful effect on the living conditions of the occupiers of 52 Lime Avenue, with particular regard to privacy. Accordingly, I find no conflict with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012, which supports development where it respects the amenities of occupiers of neighbouring property. I also find no conflict with Principle 8.1 of the Surrey Heath Residential Design Guide

Supplementary Planning Document 2017, which resists development that has a significant adverse effect on the privacy of neighbouring properties.

8. I also find no conflict with the National Planning Policy Framework, where it seeks a high standard of amenity for existing users.

Conditions

9. A condition relating to the commencement of development is not necessary as the development has started. I have imposed a condition that specifies the approved plans in the interests of certainty. A condition remains necessary to secure the use of external materials that match the existing building.

Conclusion

10. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

C Carpenter

INSPECTOR