

Appeal Decisions

Site visit made on 18 October 2016

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th November 2016

Appeal Ref: APP/K3605/W/16/3151674

8 Arnison Road, East Molesey, Surrey KT8 9JJ

- 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 Ms Zoe Foxman against the decision of Elmbridge Borough Council.
 - The application Ref 2015/4196, dated 19 November 2015, was refused by notice dated 3 February 2016.
 - The development proposed is construction of two storey dwelling and associated and formalisation of access.
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Appeal Ref: APP/K3605/W/16/3151675

8 Arnison Road, East Molesey, Surrey KT8 9JJ

- 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 Samuel Foxman against the decision of Elmbridge Borough Council.
 - The application Ref 2015/4197, dated 19 November 2015, was refused by notice dated 3 February 2016.
 - The development proposed is construction of two storey dwelling and associated and formalisation of access.
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Decisions

Appeal A: APP/K3605/W/16/3151674

1. The appeal is dismissed.

Appeal B: APP/K3605/W/16/3151675

2. The appeal is dismissed.

Application for costs

3. Applications for costs have been made by Ms Zoe Foxman and Mr Samuel Foxman against Elmbridge Borough Council. These applications are the subject of separate Decisions.

Procedural Matter

4. As set out above there are two appeals on this site, each for a single dwelling which would be positioned side by side. Whilst I have considered each proposal on its own merits, in order to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
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Main Issues

5. In relation to both Appeals A and B, the Council objects on the grounds of the proposals failing to preserve or enhance the character or appearance of the conservation area and its impact on the living conditions of the occupants of No 8 Arnison Road (No 8) with particular regard to noise and disturbance.
6. In Appeal A only, the Council object on the grounds that the proposed development would harm the living conditions of the occupiers of No 16 Bridge Gardens (No 16) with particular regard to outlook. Thus the main issues are:

For both Appeal A and B:

- Whether the proposed development would preserve or enhance the character or appearance of the East Molesey (Kent Town) Conservation Area;
- the effect of the proposed development on the living conditions of the occupants of No 8 with particular regard to noise and disturbance.

For Appeal A only:

- The effect of the proposed development on the living conditions of the occupiers of No 16 with particular regard to outlook.

Reasons

Character and appearance

7. No 8 is a relatively large detached dwelling within the East Molesey (Kent Town) Conservation Area (CA). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, paragraph 132 of the National Planning Policy Framework (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
8. Arnison Road and the other streets in the CA are characterised by relatively large detached properties, finished in a variety of materials including red brick, stucco and decorative plaster. The majority of the dwellings in the CA are set a similar distance back from the roads, behind front gardens with mature trees and planting and/or off street parking, with space between the buildings and reasonably sized rear gardens. These features give the area a formal, traditional, spacious and leafy character and appearance.
9. Both appeal proposals would involve the erection of a two storey detached dwelling. The dwelling proposed in both appeals would be virtually identical in scale and appearance. They would be positioned side by side at the bottom of No 8's long 'L' shaped rear garden between the rear gardens Nos 10 and 12 Arnison Road (Nos 10 and 12) and Nos 15, 16 and 17 Bridge Gardens.
10. I acknowledge that both dwellings would occupy plots which would be comparable in size to the properties on Bridge Gardens, St John's Road and some of the dwellings on Hansler Grove. However, with the exception of St John's Road, the other roads in the CA are mainly straight in an almost grid like

pattern of development with the majority of the properties occupying spacious plots with road frontages. Bridge Gardens is not within the CA and the dwellings on Hansler Grove and St John's Road have road frontages. In contrast, both appeal dwellings would be tucked in behind Nos 10 and 12 with no road frontage and set in plots which would be much smaller than the majority of other plots on Arnison Road and in the CA.

11. The proposed access drive and individual parking and turning areas extending deep into the rear garden of No 8 would be visible in the Arnison Road street scene. I acknowledge that the majority of the trees would remain, additional landscaping would be provided and there is no objection from the Council's Tree Officer.
12. However, the substantial hardsurfacing in place of greenery would draw attention to the proposed developments which would be at odds with the prevailing pattern of development in the area. This would be harmful to the character and appearance of the area and the overall significance of the CA. Thus, the character and appearance of the CA would not be preserved.
13. In reaching these conclusions, I have considered what may be able to be built through rights exercised under the Town and Country Planning General Permitted Development (England) Order (2015). However, those rights would not allow the construction of a new dwelling and the creation of a new domestic curtilage. I also acknowledge that the development at 25a Arnison Road does not follow the prevailing pattern of development in the CA. However, through its scale its influence on the prevailing character and appearance of the area is limited. Furthermore, the other examples quoted are some distance from the appeal site such that they do not have any particular influence on the character of the area which is relevant to this case. Notwithstanding, these examples, the presence of development is not sufficient to justify a development which is inherently harmful.
14. Therefore, for the reasons given, the development proposed under both Appeal A and Appeal B, collectively or individually, would be in conflict with the development plan and the good design aims of the Elmbridge Borough Council Design and Character Supplementary Planning Document (2012) (SPD) and the Framework. The proposal would specifically conflict with Policies DM2, DM10 and DM12 of the Elmbridge Local Plan Development Management Plan (2015) (DMP) and Policies CS7 and CS17 of the Elmbridge Core Strategy (2011) (CS) which, taken together, aim to ensure good design and that new development preserves or enhances the character of an area.
15. That said, I find the harm to the CA would be less than substantial and should therefore be weighed against the public benefits of the proposals. There would be some benefits such as two new self-build family homes, the occupants of which have lived in the local community for some time and are having difficulty accessing the local housing market. Thus, the proposals would contribute to the supply of housing in the area and there would also be employment opportunities associated with construction. Furthermore, two more houses in the area would provide new customers and employees for local businesses and services. Moreover, I acknowledge that the dwellings would be energy efficient and incorporate sustainability measures.

16. However, the benefits of the developments, collectively or individually, would not outweigh the great weight that should be given to the designated heritage asset's conservation.

Living conditions (No 8)

17. The Council granted planning permission in 2015¹ for a two storey side extension to No 8. This would replace the existing two storey side extension and provide the space required for the proposed access road. At the time of my site visit this had not been implemented. The appeal drawings show No 8 Arnison Road as if the development had taken place, I have therefore assessed the appeal proposals on the basis of No 8 as shown on the appeal plans.
18. I have considered the development nearby referred to as Wheatley Mews and the appeal decisions² referenced. However, the full details of those schemes are not before me, particularly the size of the dwellings considered. In this case, I find the dwellings proposed under Appeal A and Appeal B would be substantial four bedroom properties. Consequently they would each have the potential to generate a significant number of vehicle movements arising from the occupiers and their visitors.
19. I acknowledge the appellants' noise assessment. However, even with, triple glazed windows and the proposed buffer strip, the driveway would still be relatively narrow and would result in a significant number of vehicles passing by, almost directly adjacent to the side elevation of No 8. This together with vehicles passing by the full length of the rear garden, opening and closing vehicle doors in the parking area and vehicles entering and leaving the driveway, would result in unacceptable levels of noise and disturbance to the living conditions of the occupants of No 8, over and above that currently experienced in the area.
20. Thus, overall I find that the developments proposed in both Appeal A and Appeal B, collectively or individually, would be harmful to the living conditions of the occupants of No 8 with particular regard to noise and disturbance generated by vehicle movements and would therefore be in conflict with the good design aims of the development plan, the SPD and the Framework. They would specifically conflict with Policy DM10 of the DMP which aims to ensure the means of access to new development does not harm the living conditions of nearby residents.

Living conditions (No 16)

21. The dwelling proposed under Appeal A would be some 11.9 metre deep, some 5.7 metres tall to eaves and some 8.8 metres to its ridge. It would extend almost the full width of the appeal site boundary with No 16.
22. I acknowledge that the proposed dwelling would be set off the boundary with No 16 a distance ranging from some 2.2 metres to some 3 metres. However, No 16 has a relatively small rear garden and is slightly lower in level than the appeal site.
23. I note that No 16 has been extended to the rear at ground floor level. However, its rear elevation has a large bi-fold door (serving a kitchen/dining

¹ Council Reference 2015/2610

² App/K3605/A/09/2118354 and APP/G5180/W/16/3143796

room) and a first floor bedroom window which would directly face the side elevation of the proposed dwelling.

24. I note other properties³ in the area have similar separation distances to that proposed. However, the presence of development is not sufficient to justify a proposed development as each case must be considered on its merits. I have also noted the Council accept the proposal would not be in breach of its 25 degree guideline set out in the SPD. However, this is concerned with matters relating to light.
25. In this case, the scale of the proposed side elevation, along almost the full width of the rear garden boundary of No 16 would result in a development of a significant mass and due to its close proximity to the rear elevation would generate a feeling of enclosure which would be overbearing when viewed from the rear windows and the small rear garden of that property. In my view, it would therefore be harmful to the living conditions of the occupants of No 16 with particular regard to outlook.
26. For these reasons, the development proposed under Appeal A would be in conflict with the good design aims of the development plan, the SPD and the Framework. Even though Policy DM2 of the DMP does not directly refer to overbearing impacts, it aims to protect the amenity of adjoining occupiers and achieve good design, thus the proposal would be in conflict with this policy.

Other Matters

27. Both parties agree that the proposed developments should make a contribution towards the provision of affordable housing in the area and a completed obligation is before me. Notwithstanding the Council's detailed evidence in support of the requirement for an affordable housing contribution, even if I were to accept that the schemes should make such contributions, the benefit of such, when combined with the other benefits of the scheme would not outweigh the harm I have identified above. Thus, I have not considered this matter any further.
28. I have considered the appellants comments relating to the circumstances in which the Council made its decision on the planning applications, including whether or not it was right for the applications to be determined by the relevant committee, attendance and participation at the committee site visit and meetings. I have also considered the involvement of a Councillor who lives nearby and the Council's disclosure of information relevant to the applications. However, these are matters which would need to be taken up with the Council. I have assessed both appeals on their planning merits only.
29. I acknowledge that both appeals follow two previous planning applications⁴ and I note the attempts to overcome the previous reasons for refusal. However, on the basis of the evidence before me, I have found the development proposed in both Appeal A and Appeal B would fail to preserve the character and appearance of the CA and would be harmful to the living conditions of residents living nearby.

³ The space between Nos 6 and 7 St John's Road and Nos. 21 and 22 Bridge Gardens and No. 97 Bridge Road and Nos 25 and 26 Bridge Gardens

⁴ Council References 2015/2235 and 2015/2236

Conclusion

30. For the reasons set out above and having had regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

L Fleming

INSPECTOR