

Appeal Decision

Site visit made on 13 December 2016

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 30 January 2017

Appeal Ref: APP/K3605/W/16/3159333

Regency House, 18 Church Street, Esher, Surrey KT10 8QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paul Williams ABS Business Centres Ltd against Elmbridge Borough Council.
 - The application Ref 2016/1076, dated 1 April 2016, was refused by notice dated 28 June 2016.
 - The application sought planning permission for the change of use from B1 (Office)(290.4 sqm) to C3 (Residential) and single storey rear extension and basement without complying with conditions attached to planning permission Ref 2015/0546, dated 8 April 2015.
 - The conditions in dispute are Nos 2 and 6 which state that:
 - [2] The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: 01, 02B, 04B, 05, 06B received on 11th February 2015.
 - [6] Notwithstanding the approved plans, the development hereby approved shall not be commenced unless and until space has been laid out within the site in accordance with a scheme to be submitted to and approved in writing by the local planning authority for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking/turning area shall be retained and maintained for their designated purpose.
 - The reasons given for the conditions are:
 - [2] To ensure that the development is carried out in a satisfactory manner.
 - [6] In order that the development should not prejudice highway safety nor cause inconvenience to other highway users.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Paul Williams ABS Business Centres Ltd against Elmbridge Borough Council. This application is the subject of a separate Decision.

Background and Main Issues

3. Planning permission has been granted for change of use to residential and a single storey extension and basement at the rear under the recently approved scheme¹ on the site. The appellant seeks to vary condition No. 2 of the

¹ 2015/0546

previous permission relating to the approved plans to remove the basement, reduce the footprint of the ground floor rear extension and construct a first floor extension. The appellant also seeks to vary condition No. 6 in order to change the car parking arrangements and provide a car port canopy with a first floor roof terrace as part of the proposed development.

4. Paragraph 206 of the National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. With this in mind, the main issues are:
 - (i) Whether condition No. 2 is reasonable and necessary to preserve or enhance the character or appearance of the Esher Conservation Area,
 - (ii) Whether condition No. 2 is reasonable and necessary to safeguard the living conditions of the occupiers of the neighbouring properties at Nos. 24 and 26 Church Street with regard to outlook; and
 - (iii) Whether condition No. 6 is necessary in the interests of the safety of all highway users.

Reasons

Character or appearance of the Conservation Area

5. The appeal site comprises a detached three storey office building with a mansard roof extension and a parking area to rear located in Esher town centre and the Esher Conservation Area (CA). The neighbouring commercial properties fronting onto Church Street are a dense mix of generally two storey terraced properties. To the north-west are residential properties and to the north is an adult learning centre and associated car park. This part of the CA is dominated by the imposing structure of Grade II Listed Christ Church and the large verdant open space of Esher Green to the west and north-west of the site respectively.
6. The proposal would entail the construction of a first floor extension that would project out by about 5.5m from the rear elevation of the building. The proposed first floor extension would extend across the rear of the building with stepped corners and a flat roof with roof light above. A car port canopy with a first floor roof terrace with additional landscaping would be provided at the rear of the site.
7. The flat roofed design and the bulky appearance of the proposed first floor extension would however be very much at odds with the roof design of the host building and more traditional pitched roofs of many of the buildings in this section of the CA and the advice contained in the Council's Design and Character Supplementary Planning Document Companion Guide: Home Extensions 2012 (SPD). This requires that new extensions should harmonise with the original appearance of the house and the roof should be similar to that of the existing house, in scale, design and angle of pitch. In particular, houses with a pitched roof should not have flat roofed extensions.
8. The first floor extension would be a significant addition relative to the main building and, combined with the roof terrace and car port below and the

ground floor extension would result in substantial bulk on this side of the building. These shortcomings are exacerbated by the extension's position, which would be visible from a number of public vantage points across Esher Green, between the buildings at the rear of the site and to a more limited extent via the vehicular access off Church Street. These views between buildings at the rear towards the site are identified as Important Views in the in the Esher Conservation Area Appraisal and Management Proposals 2008 (CAAMP). As such, I consider the proposed development, by virtue of its scale, siting and design would result in an incongruous and out-of-keeping addition that would harm the character and appearance of the CA.

9. Given the modest scale of the development affecting the CA, the harm would be less than substantial but in accordance with paragraph 134 of the Framework, that harm should be weighed against any public benefits to the proposal. I note the appellant's desire is to convert the office building and provide residential accommodation through an innovative design. I find though insufficient public benefit to offset the identified harm to which I attach significant weight.
10. I have considered the appellant's comments regarding the context provided in the Framework for good design and that planning decisions should not attempt to impose architectural styling and should not stifle innovation, originality or initiative in design, but I find that this proposal does not achieve the standards the Framework seeks. I have considered the appellant's arguments regarding the scale and the design of the proposed development being in keeping with the existing building and the CA. Whilst the use of matching materials and fenestrations would assist in integrating the proposed development with the design of the existing dwelling and the landscaping scheme would mitigate some of the impact from the proposal, these aspects do not overcome the adverse effects outlined above.
11. I have considered the appellant's arguments regarding the proposed development at the rear of the building being largely obscured by the surrounding buildings, mature vegetation and the proposed landscaping scheme. However, I have viewed the appeal site and I am not persuaded by the appellant's arguments. Whilst these features would provide some visual containment, the degree of visibility provided by the existing vegetation will vary according to the seasons and any proposed landscaping scheme would take time to establish. I therefore accord these matters limited weight.
12. Consequently, I conclude that condition No. 2 is reasonable and necessary to preserve the character and appearance of the CA. The proposed development would conflict with the design and conservation aims of Policies DM2 and DM12 of the Elmbridge Development Management Plan 2015 (EDMP), Policies CS9 and CS17 of the Elmbridge Core Strategy 2011 (CS) and the guidance contained in the SPD and the Council's CAAMP. These policies and guidelines seek, amongst other things, to ensure that proposals are of a high quality design that respond to the character of the host building and the local area and preserve or enhance the character and appearance of the Conservation Areas. I find no direct conflict though with Policy CS26 of the CS which relates primarily to flooding.
13. In addition, it would not accord with the Framework that development should seek to secure a high quality of design and conserve heritage assets in an

appropriate manner (paragraph 17) and take into account the desirability of making a positive contribution to local character and distinctiveness in conserving and enhancing the historic environment (paragraph 131).

Living conditions of the occupiers of the neighbouring properties

14. The first floor extension and terrace would be set back approximately 7-10m from the rear elevations of Nos. 24 and 26 Church Street (Nos. 24 and 26). The appeal site is separated from the adjacent properties by a close boarded fence of about 2m in height, ground floor extensions and outbuildings at the rear of Nos. 24 and 26.
15. Whilst I accept that there would be some impact from the proposal, given the overall size and the design of the proposed extension and the terrace, the separation distance between the properties and the orientation of the buildings, I consider the proposal would not cause an unacceptable overbearing impact on the occupiers of Nos. 24 and 26. The principle of the first floor terrace has already been approved within the previously approved scheme and the outlook at the rear of Nos. 24 and 26 is already toward the side elevation of No. 18. As such the relationship between the proposed development and adjacent properties would not be significantly materially different to the existing situation on the site.
16. Consequently, I conclude that condition No. 2 is not reasonable and necessary to safeguard the living conditions of the occupiers of the neighbouring properties at Nos. 24 and 26 Church Street with regard to outlook. The proposed development would accord with the overall amenity aims of Policy DM2 of the EDMP, Policies CS9 and CS17 of the CS and the SPD. These policies and guidelines seek, amongst other things, to ensure that the proposal would provide a satisfactory level of amenity and would protect the amenities of the nearby properties. In addition, it would accord with the Framework that seeks to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

Highway safety

17. Vehicular access is provided via a driveway between No. 18 and No. 24 Church Street to a hard surfaced courtyard at the rear. It is located off A244 Church Street which is a busy one-way section of the road leading from the High Street and the town centre to the south of the site towards Esher Green to the north. The A class road by the entrance to the site has footpath provision, parking restrictions and a pedestrian crossing nearby.
18. It is proposed that two car parking spaces would be provided for the occupiers of the proposal in a car port beneath the rear first floor terrace at the rear of the site. The appellant's statement outlines that the proposed parking arrangements would be in the place of the two car parking spaces and the electric turn-table arrangements for cars permitted under the previously approved scheme. There is no indication in the appellant's supporting evidence that a turn-table arrangement would be provided in the proposed development.
19. Paragraph 32 of the Framework states that decisions should only be prevented or refused on transport grounds where the residual impacts of development are severe. In view of the scale of development, it is evident that the impact of the development on highway efficiency would not be severe. However,

paragraphs 32 and 35 of the Framework go on to state that decisions should also take into account whether safe and suitable access to the site can be achieved for all people.

20. From the evidence provided and from my observations on site, I consider that the proposed parking arrangements are neither safe nor suitable to safely cater for the traffic movements from the proposal, due to the proposed design of the covered parking area and the configuration of the site. The tracking of the vehicular movements on the submitted plans show that the users of the parking area would be severely restricted by its location immediately against the rear boundary of the site. This would significantly reduce the ability of drivers to use the proposed car parking spaces safely so that they may enter and leave the site in forward gear and as such would result in potential conflict between traffic and cyclists or pedestrians contrary to highway safety.
21. I note the appellant's comments about the access and parking arrangements and that the Highway Authority raised no highway objections. However, I have assessed not just the numerical provision but the local prevailing circumstances, and I consider that this would not outweigh the site's significant shortcomings I have identified in this case.
22. Consequently, I conclude that condition No. 6 is necessary in the interests of the safety of all highway users. The proposal would conflict with paragraphs 32 and 35 of the Framework, which seek to ensure that a safe and suitable access to the site can be provided for all people and that a safe and secure layout can be achieved which minimises the conflicts between traffic and cyclists or pedestrians.

Other matters

23. The appeal property is located adjacent to the Grade II Listed Christ Church and the locally listed dwellings at Nos. 24 and 26. Given the modest scale of the development and the separation distance between the existing buildings and the appeal site, I consider that the appeal scheme, subject to the materials used matching those on the existing building, would have no material impact on the settings of the listed Church and the locally listed buildings. The settings would therefore be preserved.
24. I have noted the local support for the proposal on the basis of the renovation and improvements to the existing building and area, parking and traffic associated with the current office use. However, there are other means of addressing these matters under the recently approved scheme in this case.

Conclusion

25. Notwithstanding my findings on the lack of harm to the living conditions of the neighbouring properties, condition No. 2 is reasonable and necessary in order to preserve the character and appearance of the CA and condition No. 6 is necessary in the interests of the highway safety. For the reasons given above, and having regard to all other matters raised, I conclude that conditions No. 2 and No. 6 should not be varied and so the appeal should be dismissed.

David Troy

INSPECTOR