
Appeal Decision

Site visit made on 17 January 2017

by Elaine Gray MA(Hons) MSc IHBC

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

Decision date: 03 February 2017

Appeal Ref: APP/K3605/W/16/3162990
15 Lammas Lane, Esher KT10 8PA

- 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 Duncan Harrison against the decision of Elmbridge Borough Council.
 - The application Ref 2016/2153, dated 29 June 2016, was refused by notice dated 18 October 2016.
 - The development proposed is subdivision of existing residential building into two dwellings with associated single/two storey rear extensions plus the construction of a detached dwelling within the rear garden.
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Decision

1. The appeal is allowed and planning permission is granted for subdivision of existing residential building into two dwellings with associated single/two storey rear extensions plus the construction of a detached dwelling within the rear garden at 15 Lammas Lane, Esher KT10 8PA in accordance with the terms of the application ref 2016/2153 dated 29 June 2016, subject to the conditions set out in the schedule to this decision letter.

Preliminary matters

2. The description of the proposal varies between the application form and the subsequent documents. I have used a shortened version of the description given on the application form as it describes the development more succinctly.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the conservation area, and whether the proposal would provide adequate living conditions for future occupants, with particular regard to outdoor space and privacy.

Reasons

Character and appearance

4. The appeal site is within the Esher Conservation Area (CA), which is located to the west of Esher town centre. The CA is characterised primarily by residential development, but includes a church and a number of commercial buildings.
 5. The property at 15 Lammas Lane is a two storey semi-detached property which sits at a 45 degree angle to the road. It is identified by the Council as a Significant Unlisted Building, and it contributes positively to the character and
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appearance of the CA. The proposal would divide No 15 into two residential units, and would create a new detached dwelling within the existing garden. The proposed detached dwelling was previously allowed on appeal¹, and this element of the development is not in contention. The Council raises no issue with regard to the proposed alterations to the existing building at No 15, and I agree with that position.

6. The sizes of garden plots within the CA vary considerably. Clive Road, to the west of the appeal site, is characterised by detached properties within generous plots, whilst to the east, Wolsey Road comprises significantly smaller dwellings with correspondingly more restricted plots. Whilst the garden of No 15 is one of the largest in the vicinity, the principle of its subdivision has already been established by the recent grant of planning permission. The current appeal scheme would divide the garden area immediately to the rear of No 15 to provide private outdoor space for each of the two new units.
7. The new gardens would be hidden from wider views within the CA, and would only be perceptible in private views from a small number of neighbouring properties. Whilst they would be smaller than other gardens in the immediate area, they would nonetheless be proportionate in size to the new dwellings. Moreover, their secluded position would be such that they would have little impact on the significance of the wider CA.
8. The Council is also concerned about the amount of hardstanding that would be required to provide parking for Units 1 and 2, and access to Unit 3. On my site visit, I observed that the visible area in front of No 15 is already dominated by the existing parking area. The removal of the garage to allow access to the proposed detached house would necessitate the laying of additional hardstanding to the side of No 15. However, whilst there would be some increase to the total area of hardstanding, I do not consider that it would be excessive, or more than would be reasonably necessary for the purposes of access and parking. The existing access would be reconfigured and slightly widened, but this would not open up the frontage to a significantly greater degree. The existing block paving would be replaced with a bound gravel finish, which I consider to be a suitable material for this location. Therefore, I find that the character and appearance of the CA would not be unduly compromised by the proposal.
9. Drawing these factors together, I conclude that the proposal would preserve the character and appearance of the Esher Conservation Area, and so would accord with Policy DM12 of the Elmbridge Local Plan Development Management Plan (DMP, April 2015), which seeks to protect, conserve and enhance the Borough's historic environment. It would also comply with Policy CS9 of the Elmbridge Core Strategy (CS, July 2011), which requires specific attention to be given to areas of high heritage value, such as conservation areas. It would further accord with CS Policy CS17, insofar as it seeks to protect local character, and DMP Policy DM7, which amongst other things, requires the layout and siting of accesses to be acceptable in terms of visual impact. Finally, it would comply with the National Planning Policy Framework (NPPF), which seeks to protect heritage assets.

¹ APP/K3605/A/14/2218401

Living conditions

10. Because of the angled position of No 15 in relation to the western boundary of the site, the new gardens to the rear would be irregularly shaped, and the garden of Unit 1 would be the smaller of the two. However, the Council's document entitled 'Elmbridge Local Plan Design and Character Statement Supplementary Planning Document' (SPD, April 2012) recommends a minimum garden depth of 11m, and the garden of Unit 1 would meet this requirement. I am satisfied that the space would be fully useable, and would be adequate for expected activities such as children's play and sitting out. It would be situated away from bin stores and parking areas, and so would offer amenity space of a good quality.
11. The Council has also voiced concern with regard to the location of the first floor bathroom window of Unit 2, which would be positioned above the proposed garden area of Unit 1. Although the Council objects on the basis of a perception of overlooking from this window, neither the relevant local policies nor the NPPF make reference to this concept.
12. On this basis, I consider the key issue to be whether the proposal would actually result in overlooking. I acknowledge that the proposed window would face the neighbouring garden at close proximity. However, it would serve a non-habitable room and would be glazed with frosted glass, with the bottom sash fixed shut. As a result, there would be no direct views from this window, and so I am satisfied that the future occupiers of Unit 1 would not suffer any undue loss of privacy.
13. Taking these matters in combination, I conclude that the proposal would provide adequate living conditions for future occupants. It would therefore comply with DMP Policy DM2, insofar as it seeks to protect the amenity of adjoining and potential occupiers and users. It would also accord with the principles set out in the SPD.

Other Matters

14. I have had regard to the concerns raised by neighbours, including the effect of the proposal on traffic safety, and parking on site and in the surrounding streets. I am satisfied that the scheme would provide sufficient parking spaces for the proposed dwellings, and would increase the available space within the site for visiting vehicles. In conjunction, the access would be widened, improving visibility for road users. The Highway Authority has found the development to be acceptable, and there is no substantive evidence to lead me to a contrary view on this matter.
15. In terms of the residential amenity, concern has been voiced in respect of overshadowing and loss of light to the neighbouring conservatory at 17 Lammas Lane. The projection of the new single storey extension would be very similar to that of the existing single storey structure, at approximately 2.5m from the rear wall. The end wall of the extension would be increased in height from around 2.7m to around 3.3m. Whilst an increase of about 0.6m over 2.5m would be perceptible, I do not consider that it would be so harmful to living conditions as warrant the withholding of planning permission.
16. I have taken account of all other representations provided by interested parties, but they have not led me to a different conclusion.

Conditions

17. The Council has suggested a number of planning conditions which I have considered against the relevant advice in the PPG. As a result, I have amended some of them for clarity and brevity, and to avoid repetition.
18. For certainty, it is necessary that the development is carried out in accordance with the approved plans. Conditions relating to materials, landscaping and trees are appropriate in the interests of character and appearance. A condition restricting the use of the roof of the single storey extension is necessary to protect the amenity of future occupiers. A condition requiring a Construction Method Statement is necessary to ensure there are no significant adverse impacts upon surrounding occupiers, or upon the highway. A condition relating to the provision of parking and turning space is necessary to ensure highway safety.
19. I have not imposed the proposed condition restricting development within curtilage of the proposed new dwellings. Clear justification is required for such a restriction, and the PPG advises that it should only be used in exceptional circumstances. There is no evidence before me in this case to justify such a condition.
20. It is essential that the requirements of Conditions 3, 5, 7 and 8 are agreed prior to the development commencing to ensure that the development is acceptable in respect of the matters they address.

Conclusion

21. For the reasons above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

Elaine Gray

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P_001 Rev A; P_002 Rev A; P_003 Rev A; P_004 Rev B; P_005 Rev A; P_006 Rev B; P_007 Rev A; P_008 Rev B; P_010 Rev A; P_011 Rev B; P_012 Rev A; P_013 Rev B; P_014 Rev A; P_015 Rev B; P_016 Rev A; P_017 Rev A; P_018 Rev A; P_019 Rev A; P_020 Rev B; P_021 Rev B; P_022 Rev B; P_023 Rev A; P_030 Rev B; P_031 Rev B; P_032 Rev B.
- 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.

- 4) The roof area of the single storey extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area.
- 5) No development shall commence until details of hard and soft landscaping works have been submitted to and approved in writing by the local planning authority. These details shall include: all current and proposed hard surfaces, walls, fences, access features and ground levels; new planting, and; measures to protect existing features during construction.
- 6) The landscaping works shall be carried out in accordance with the approved details before the end of the first planting and seeding season following occupation of the dwelling or completion of the development, whichever is sooner. Any tree or plant which, within a period of 5 years from the completion of the development, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with a tree or shrub of similar size and species, unless otherwise agreed in writing by the local planning authority.
- 7) No development shall commence until the measures to be taken protect existing trees and hedges during construction, demolition, and delivery of materials/machinery, including a tree protection plan and an arboricultural method statement in line with BS 5837:2012, have been submitted to and approved in writing by the local planning authority. These measures shall be adhered to throughout the course of the development.
- 8) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for:
 - parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - programme of works;
 - measures to prevent the deposit of materials on the highway;
 - delivery, demolition and construction working hours;
 - measures for traffic management, including on-site turning for construction vehicles.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) No dwelling hereby permitted shall be occupied until space has been laid out within the site in accordance with drawing no. P_008 Rev B for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The parking and turning areas shall thereafter be kept available at all times for those purposes.