

Appeal Decision

Site visit made on 10 February 2017

by Timothy C King BA (Hons) MRTPI

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

Decision date: 6 March 2017

Appeal Ref: APP/P3610/D/16/3162547

9 Ewell Downs Road, Epsom, KT17 3BP

- 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 Anthony Oliver against the decision of Epsom and Ewell Borough Council.
 - The application Ref 16/00535/REM, dated 3 July 2016, was refused by notice dated 31 August 2016.
 - The application sought planning permission for ground and first floor rear and side extensions at 9 Ewell Downs Road, Epsom, KT17 3BP without complying with a condition attached to planning permission Ref APP/P3610/D/15/3006318, dated 16 June 2015.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 01; 02; 03, 04; 05; 06; 07 and 08.
 - The reason given for the condition is: "for the avoidance of doubt and in the interests of proper planning."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The physical variations proposed from the above plans approved would involve the introduction of a roof lantern, the creation of first floor balconies to the dwelling's rear elevation and a flank, velux roof window. From the appeal papers and also the Council's documents it is clear that the roof lantern was previously in situ, without the benefit of planning permission. This feature has since been removed.
 3. Two first floor balconies to the dwelling's rear, and in the location specified on the submitted drawings (Nos 06 A and 08 A), do exist. However, the depth of the balconies, as depicted on these drawings, would appear to differ from the Juliet style balconies installed. Notwithstanding that the description of the proposed amendments on the application form refers to 'Juliet balconies' the submitted drawings suggest otherwise, depicting enclosed floorspace of noticeable depth, albeit slight, with front screens different from the railings now installed.
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4. Despite the fact that the roof lantern has been removed and the balconies formed and screens thereto apparently differ from those proposed I am required to assess the proposal only on the basis of the drawings submitted which show material differences from the extensions allowed on appeal in June 2015.
5. The Council has only raised objections in respect of the roof lantern and balconies, as proposed. It does not take issue with the high level, velux window which lights loft space. I agree with this approach as, due to its positioning and height, I do not consider that this element of the proposal would give rise to any overlooking of neighbouring properties. As such, I will confine my assessment to that of the proposal's other two elements.
6. Neighbouring occupiers have raised concerns as to the nature of flank wall windows installed as part of the previously approved scheme which, by way of Condition 4 on the Inspector's decision letter, have specific restrictions as to their opening. It is, though, beyond my remit to comment on such an issue as, whether any such breach has occurred in this regard, it is not a matter before me and, besides, is something that the Council may remedy by way of its discretionary enforcement powers.

Main Issues

7. The main issues are:
 - i) with respect to the roof lantern, the effect of the proposal on the character and appearance of the host property and the surrounding area, having particular regard to the site's conservation area location; and
 - ii) with respect to the balconies, the effect of the proposal on the living conditions of neighbouring occupiers, having particular regard to overlooking and privacy.

Reasons

Character and appearance

8. The site falls within the Ewell Downs Road Conservation Area whose main characteristic is one of large, detached houses of varied design set in spacious plots. However, although the dwelling is significantly set back from the footway the roof lantern's central positioning and size would make for an uncharacteristic addition to the dwelling's roof, readily visible from a number of vantage points along the street.
9. In assessing proposals for development I am required to have special regard to the statutory duty of paying special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this particular instance I consider that the sizeable lantern, rising significantly above the roof's ridgeline, would not make a positive contribution to the streetscene, appearing as something of an add-on and as an imposition to the dwelling itself.
10. In the above regard, although the appellant takes the view that the lantern's dark colour would mitigate any impact, I do not consider that the intended colour would render the feature acceptable in its setting. As such, I consider that the proposal would impact adversely on the dwelling's character and

appearance, and this would be consequentially harmful to the Conservation Area. Although the harm would be less than substantial I find no public benefits resulting which would outweigh my findings.

11. I conclude on the first main issue that the proposal would be harmful to the character and appearance of the both the host dwelling and its surrounding area, conflicting with the aims and requirements of Policies DM8, DM9 and DM10 of the Council's Development Management Policies Document (DMPD).

Living conditions

12. Although the existing Juliet balconies do not practicably allow for persons to sit out or even comfortably stand outside the doors thereto, the actual proposal, as shown on drawings 06 A and 08 A, imply a different arrangement with direct access to the short flat roof sections beyond.
13. The appellant argues that the balconies' depth would not allow for outside seating and that existing landscaping to the side boundaries would preclude the overlooking of neighbouring properties. However, I consider this is insufficient justification to confirm the balconies' acceptability. Although the hedging along the boundary with No 11 would prohibit overlooking of this neighbour's garden the proposed arrangement would give rise to a greater potential for overlooking of No 7's rear garden, particularly over the near stretch of fencing at the common boundary.
14. On this main issue I conclude that the proposal would be harmful to the living conditions of the neighbouring occupiers at No 7, conflicting with the requirements of DMPD Policy DM10.

Conclusion

15. I have found harm on both main issues which is compelling. For the above reasons, and having had regard to all other matters raised, the appeal does not succeed.

Timothy C King

INSPECTOR