
Appeal Decision

Site visit made on 5 December 2017

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 21 December 2017

Appeal Ref: APP/K3605/W/17/3179646

89 High Street, Esher KT10 9QA

- 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 Roger Clarke, Clarke's Interiors against the decision of Elmbridge Borough Council.
 - The application Ref 2017/0786, dated 7 March 2017, was refused by notice dated 4 May 2017.
 - The development proposed is a new rear storage unit.
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Decision

1. The appeal is allowed and planning permission is granted for a new rear storage unit at 89 High Street, Esher KT10 9QA, in accordance with the terms of the application, Ref 2017/0786, dated 7 March 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1802-EX-2A; 1802-SK-1D; 1802-SK-2D; 1802-SK-3D and 1802-SK-5D.
 - 2) The development shall be finished with a black plinth, black timber cladding and a single ply membrane roof, the colour of which shall be submitted to and agreed in writing by the local planning authority.
 - 3) The outbuilding shall only be used for storage of goods ancillary to the use of the retail business at 89 High Street, Esher, and for no other purpose.

Main Issue

2. The main issue is the effect of the development on the living conditions of the occupiers of Nos 3-5 Dawes Court with particular reference to outlook.

Reasons

3. The proposed building would be positioned at the rear of the commercial premises at No 89 High Street. Most of the properties around this part of the appeal site are also commercial in nature. However, Nos 3-5 are in residential use and immediately back onto the appeal site. These are cottage type properties which appear single storey at the rear with additional accommodation in the roof space.

4. The appeal building would be positioned 3m from the boundary with Nos 3-5 and 6.3m from the rear of those dwellings. It would present a blank side elevation towards their rear aspect which would be 6.35m wide and up to 2.96m high and set at a higher level. However, because of the height of the existing boundary treatment at the rear of Nos 3-5, relative to their ground floor level, as well as the shallow depth of their rear gardens, the ground floor outlook for occupants is already dominated by the existing timber fence.
5. Moreover, because of the height of the fence and the height and set back of the proposed building, it would not be visible from eye level from the ground floor of Nos 3-5. The proposal would not therefore materially affect the outlook from these habitable room windows or from the rear garden space. For the same reasons the proposal would not unacceptably increase overshadowing or loss of light.
6. I accept that the building would clearly be visible at first floor level in relatively close proximity. However, the section drawing shows that the cill level of the windows would be higher than the roof level of the proposed building. Whilst this space may previously have been grassed this is no longer the case and occupants would be able to look over the top of the building. The outlook would not therefore be materially affected to a degree whereby it would be reasonable to withhold planning permission.
7. Whilst the proposal would increase activity at the rear of the appeal site, in quite close proximity to Nos 3-5, given the commercial context of the town centre location and that the main focus of activity would be at the entrance facing the rear of No 89, this would not be significant or unacceptable. No windows are proposed on the side facing elevation and again, with the main focus of activity being towards the rear of No 89, I do not envisage material overlooking or loss of privacy to the upper storey windows of Nos 3-5. The lower windows are protected by the existing fence.
8. I therefore conclude that the proposal would not cause unacceptable harm to the living conditions of the occupants of Nos 3-5 and as such would not result in conflict with Policy CS17 of the Elmbridge Core Strategy or Policy DM2 of the Elmbridge Local Plan Development Management Plan or paragraph 17 of the National Planning Policy Framework. These policies seek, amongst other matters, to protect the amenity of adjoining and potential occupiers and users.

Other matters

9. The appeal site is located within the Esher Conservation Area. Due to its single storey height and siting at the rear of No 89, the proposal would have little or no visual presence in public views from the High Street. It would clearly be visible from the rear of the properties situated around the site but its proposed use of black painted timber boarding, in keeping with the external finishes of Nos 3-5, as well as its single storey scale, would limit its prominence, despite its relatively functional design. Moreover, this is an area of fairly tight urban grain and in this context I do not consider it to be an unacceptable over development of the site. I therefore find that the proposal would have a neutral effect that would preserve the character and appearance of the Conservation Area.

10. I have noted the concerns raised regarding the effect on property values, however, in general, the courts have taken the view that the protection of such purely private interests cannot be a material consideration.

Conditions

11. In addition to the standard condition that limits the lifespan of the planning permission, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A condition controlling external finishes is necessary to protect the character and appearance of the area. A condition linking the ancillary use of the building to No 89 is necessary to protect the living conditions of neighbouring residents.

Conclusion

12. For the reasons given above, and taking into account all other matters raised, I conclude the appeal should be allowed.

Richard S Jones

INSPECTOR