



Appeal Decision

Site visit made on 15 April 2019

by J Slominski BA(Hons) MCD

an Inspector appointed by the Secretary of State

Decision date: 16 July 2019

Appeal Ref: APP/K3605/D/19/3221422

1 The Rythe, Copsem Lane, Esher, KT10 9HL

- 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 Hewazy against the decision of Elmbridge Borough Council ("the Council").
 - The application Ref 2018/2418, dated 06 August 2018, was refused by notice dated 07 November 2018.
 - The development proposed is Retrospective outbuilding to front of dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for Retrospective outbuilding to front of dwelling at 1 The Rythe, Copsem Lane, Esher, KT10 9HL in accordance with the terms of the application, Ref 2018/2418, dated 06 August 2018, and the plans submitted with it, subject to the following condition:
 - 1) The development hereby permitted shall be retained in accordance with the following approved plan: 5163-001.

Main Issues

2. The main issues are the effects of the proposed development on (i) character and appearance and (ii) the adjacent protected pine tree.

Reasons

Character and Appearance

3. The appeal proposal is an outbuilding in the front garden of 1 The Rythe, which is a detached house on the west side of Copsem Lane. The front boundary treatment is a timber fence and laurel hedge behind a row of large trees along Copsem Lane. Copsem Lane is characterised by large detached buildings set back from the road behind timber fences, trees and tall hedges which screen the front gardens and driveways beyond. The houses are of varied design and positioning with no uniformity.
4. The outbuilding has been constructed close to the front boundary. It is a small timber structure screened from the road by a fence and laurel hedge. When viewed from the street its roof is visible in glimpse views, however due to the screening provided by the boundary treatment and the shading from the trees above, the visual impact on the street scene is extremely limited. Furthermore, the outbuilding's position does not conflict with the varied positioning of buildings nearby, which in some cases (notably at 1-3 Heckets Court) includes

garages or outbuildings in front gardens. The proposal would therefore comply with Elmbridge Core Strategy (July 2011) Policy CS8 and Elmbridge Local Plan Development Management Plan (April 2015) Policy DM2 which together seek high quality design which preserves or enhances local character (consistent with the aims of the National Planning Policy Framework).

Effect on the adjacent Pine Tree

5. The Council's Tree Officer noted that the outbuilding is within the predicted root protection area of the protected Pine tree adjacent to the site, and that no information was submitted to demonstrate that the construction was done in an arboriculturally sensitive manner. Consequently, concerns were raised about the potential for harm to the tree.
6. Following the Council's decision, the appellant commissioned and provided a tree survey and arboricultural report. The survey included the digging of trial pits below the slab level of the outbuilding, and revealed no harm to the tree roots. The appellant does not appear to have shared the arboricultural report with the Council prior to the submission of the appeal, but the Council subsequently commented on it and accepted that whilst the location of an outbuilding close to large trees is undesirable (including due to pressure for pruning arising from falling detritus) no harm was caused to the tree.
7. The appellant's arboricultural consultant described the Council's grounds for refusal "exaggerated and unreasonable" which is rather unfair, in particular given that very little information about the development's impact on the adjacent protected trees was submitted with the planning application. That notwithstanding, it has since been demonstrated that the proposed development would not result in unacceptable harm to the adjacent Pine tree in compliance with Policy DM6 of the Elmbridge Local Plan Development Management Plan (April 2015) which seeks to adequately protect existing trees which make a significant contribution to the character or amenity of the area, in line with the National Planning Policy Framework 2018.

Conclusion and Conditions

8. In light of the above, and having had regard to the other matters raised, the proposed development would comply with the development plan and therefore the appeal is allowed.
9. Planning permission is granted subject to a condition requiring the development to be maintained in accordance with the approved plans, to ensure an acceptable appearance and in the interests of clarity.
10. The Council has suggested an additional planning condition describing the materials used for the construction of the outbuilding. As the building has already been constructed in painted timber, the effect of such a condition would be to require the retention of the existing paint colours which given its limited visibility is unnecessary.

Jan Slominski

INSPECTOR