
Appeal Decision

Site visit made on 20 August 2019

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

Appeal Ref: APP/K3605/W/19/3229638

9 Harebell Hill, Cobham KT11 2RS

- 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 Daniel Biasioli against the decision of Elmbridge Borough Council.
 - The application Ref 2018/3667, dated 30 November 2018, was refused by notice dated 25 April 2019.
 - The development proposed is described as 'detached two storey house with additional rooms in the roof space and attached garage with room above following demolition of existing house & garage'.
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Decision

1. The appeal is allowed and planning permission is granted for a 'detached two storey house with additional rooms in the roof space and attached garage with room above following demolition of existing house & garage' at 9 Harebell Hill, Cobham KT11 2RS in accordance with the terms of the application, Ref 2018/3667, dated 30 November 2018, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Daniel Biasioli against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have noted discrepancies between the details on drawings 304(PL)04 Rev B and 304(PL)05 Rev B compared to 304(PL)07 Rev B. The floorplans show an opening within the north west elevation of a dormer that serves a stairwell. Furthermore, they show a rooflight in the roofslope of the north-west elevation serving an en-suite adjacent to the stairwell. However, the elevations annotate the dormer as being tile hung with no opening and do not show the rooflight. I consider that all parties have had opportunity to comment on the submissions and the occupiers of the adjoining 11 Harebell Hill have made representations. I have therefore continued to determine the appeal on the basis of the evidence before me. I will return to the matter in addressing the main issues.

Main Issues

4. The main issues are:
 - i) The effect on the character and appearance of the area; and

- ii) The effect on the living conditions of occupiers of 7, 10 and 11 Harebell Hill with particular regard to overbearing impact, loss of light and privacy.

Reasons

Character and appearance

5. The proposed development would increase the mass and scale of the built form on the site. However, it would continue to broadly reflect the prevailing characteristic of the area for 2-storey development that is set back from the road, with an off-set building line. Moreover, the proposal would have a design that would assimilate well with the adjacent dwelling at 7 Harebell Hill and other properties within the immediate street scene, including a number with accommodation in the roof space over forward projecting garages. Furthermore, the proposal would reflect the common theme of large detached housing set back from the frontage and sited behind boundary treatments including high gates with brick piers.
6. From my site inspection I noted a number of comparable developments, on similar sized plots. Additionally, I observed dwellings that appear of a height, scale and bulk akin to that proposed. These dwellings do not appear out of keeping. Furthermore, I saw that much of the built form in the area appears to occupy virtually the full width of the plot, whilst retaining separation to the boundaries of circa 2 metres. The proposed dwelling and garage would be re-sited to provide greater separation from the highway at the front, and the finished floor levels would be lower than the existing bungalow.
7. From the street scene, due to the siting and form of the development, the depth of the building would not be a feature of significance. Moreover, I consider that the plot is of an adequate size and form to facilitate such a depth of building without appearing as overdevelopment.
8. I consider that the proposal would have an appearance, bulk and scale like other properties in the area, including the adjacent No 7. Whilst I note the plots and developments are not identical, I do not consider that the differences are significant. Furthermore, I find that the proposal would have a separation to the boundaries that is similar to the prevailing separation distances within the locality. Given its siting, which is set back from and lower than the road, and the proposed front boundary landscaping, the proposed separation to the flanking boundaries and the depth of development at these points would not appear out of keeping.
9. For the reasons above, the proposed development would not harm the character and appearance of the area. It would not conflict with the Council's adopted July 2011 Elmbridge Core Strategy Policy CS17 and adopted April 2015 Elmbridge Local Plan – Development Management Plan Policy DM2 which amongst other aims seek high quality design. Furthermore, I find no conflict with the Elmbridge Local Plan – Design and Character Supplementary Planning Document or the Elmbridge Local Plan - Design and Character Supplementary Planning Document Companion Guide: Cobham, Oxshott, Stoke D'Abernon & Downside, both adopted April 2012.

Living conditions

10. The Council's grounds for refusal raised the effect on the living conditions of 11 Harebell Hill with particular regard to overbearing impact. Furthermore, I note concerns from the occupiers of this neighbouring property, and other third parties, about the effect on the living conditions of No 11 with particular regard to loss of light and overbearing impact. No 11 is located close to the front of its plot and on ground elevated above the appeal site. The proposed replacement dwelling, and the replacement garage would have lower finished floor levels than the existing bungalow and flat roof garage respectively. Whilst overall the proposed development would be higher than the existing, it would be sited further back within the plot from No 11. The reduced finished floor levels, difference in levels between the 2 neighbours and the greater separation distance would all mitigate the additional mass and bulk of the built form.
11. Furthermore, although the length of the development adjacent to the north-west boundary would be long, the built form would be set away from this by circa 2 m and the proposed landscaping would provide further mitigation. The garden area of No 11 is extensive and the more formal area between the dwelling and its outbuilding is raised above the appeal site. The area adjacent to the boundary is largely cast in shade by existing features. Additionally, the proposed built form at this point would be single storey with accommodation within the roof that slopes away from the boundary. The main body of the proposed dwelling would be set back from the boundary, beyond the single storey elements, and have a hipped roof form so that the highest point of the development would be some way from No 11's property.
12. Therefore, due to the siting, separation, relative levels and form of the development, I find that no harm would be caused to the living conditions of the occupiers at No 11 with regard to loss of light or overbearing impact.
13. I note minor ambiguities between the elevation and floor plan drawings regarding a window to a stairwell and a rooflight to an en-suite bathroom on the north-west elevation. However, this fenestration would not serve habitable rooms and as such would not lead to any significant loss of privacy. However, in the circumstances, I find that a condition would be reasonable and necessary to protect the living conditions of No 11's occupiers in relation to privacy by ensuring that any first floor openings are obscure glazed and fixed shut if less than 1.7 m above the floor level.
14. Concerns have been raised by the occupiers of 7 Harebell Hill, and other third parties, about the effect on the living conditions at this property with particular regard to loss of light and overbearing. The development would be sited to the north of No 7. Furthermore, the north-west elevation of the neighbouring property has limited fenestration and looks out to boundary features such as fencing and landscaping. Moreover, open aspects would remain for occupiers of this property to the front, rear and over its own property. Due to this orientation and siting, I find that no harm would be caused to the living conditions of the occupiers at No 7 with regard to loss of light or overbearing impact. The submitted plans show first floor windows to serve a stairwell and 2 ensuite bathrooms. Whilst not serving habitable rooms, I note the plans indicate that the openings would be obscure glazed. I find that a condition to restrict these openings can adequately protect the living conditions in relation to privacy.

15. Concern has been raised by the occupiers of 10 Harebell Hill about the effect on their living conditions with particular regard to privacy. The development would be sited some distance back within the plot and at a lower level than No 10. Furthermore, No 10 is located on the opposite side of the road, set back from its frontage behind high boundary treatments, and at an angle to the proposal. As such, due to the topography, separation distance and intervening features I find that no harm would be caused to the living conditions of the occupiers at No 10 with regard to privacy.
16. For those reasons, the proposed development would not harm the living conditions of occupiers of 7, 10 and 11 Harebell Hill with particular regard to overbearing, loss of light and privacy. It would not conflict with the Council's adopted April 2015 Elmbridge Local Plan – Development Management Plan Policy DM2 which amongst other aims seeks to protect the living conditions of adjoining occupiers.

Other matters

17. During the course of the application third parties have expressed concern about ground water being displaced by the proposal and resulting in flooding. I have noted the appellant's Flood Risk Assessment dated December 2018 (ref: 304 (PL) 25). I note that this states that there is some 'low' risk of surface water flooding at the end of the appeal site. Furthermore, it states that this is on land some 2.4m lower than the finished floor level of the building. Based on the evidence before me there is nothing to indicate that the development area suffers from elevated ground water flood risk, or that the basement construction would displace ground water such as to result in elevated flood risk to neighbouring property.
18. Furthermore, third parties have raised concern in regard to disturbance from the construction phase of the development. I note the appellant's drawing 304(PL)30 and I am satisfied that the specified measures therein would adequately manage the transient impacts from construction. The measures would avoid significant harm to planning interests including, the living conditions of neighbouring property.

Conditions

19. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. I have imposed conditions in relation to the implementation of the landscaping details, and the protection and retention of trees in the interests of the character and appearance of the area. Furthermore, I have imposed a condition in relation to the flank elevation openings to both define the terms of the permission and protect the living conditions of 7 and 11 Harebell Hill. Finally, I have imposed a condition in relation to the ecology to ensure biodiversity enhancement in accordance with the appellant's ecology report.
20. I have had regard to the suggested conditions from the Council and I have made alterations in the interests of necessity and precision. Furthermore, I find that the suggested condition in relation to the external materials is not necessary as the details provided on the hereby approved plans are satisfactory. If variation from these details is required, then there are more appropriate provisions than the use of planning conditions. Additionally, the

suggested condition to restrict permitted development rights in regard to additional openings has not been demonstrated as reasonable or necessary.

Conclusions

21. For the reasons given, I conclude that the appeal should be allowed subject to the conditions listed in the attached schedule.

James Taylor

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 304(PL)00, 304(PL)03 Rev B, 304(PL)04 Rev B, 304(PL)05 Rev B, 304(PL)06 Rev B, 304(PL)07 Rev B, 304(PL)08 Rev B, 304(PL)15 Rev B, 304(PL)30, 304 (PL)31, 304(PL)32 and DPA-7021-03 Rev B.
- 3) The development hereby permitted shall not be occupied until any first floor windows or rooflights on the north-west walls or roof slopes, and the first floor windows on the south-east wall, have been fitted with obscured glazing. No part of these openings, that is less than 1.7 metres above the floor of the room in which it is installed, shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window or rooflight is installed, and once installed, the obscured glazing shall be retained thereafter.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) All existing trees, hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first occupation of the development. a) no retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning shall be carried out in accordance with British Standard 3998: 2010 (tree work). b) if any retained tree, hedge or hedgerow is removed, uprooted or destroyed or dies, another tree, hedge or hedgerow of similar size and species shall be planted at the same place, in the next available planting season or sooner.
- 6) No development including groundworks and demolition shall commence, and no equipment, machinery or materials shall be brought onto the site

for the purposes of the development, until all tree protection measures have been installed, and in the positions identified, in accordance with the tree protection plan ref: DPA-7021-03 Rev B.

- 7) The development shall be carried out in accordance with the recommendations and enhancements at Table 5 of the Bat Survey by Arbtech, dated 31.07.2018.