



Appeal Decision

Site visit made on 21 January 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th March 2020

Appeal Ref: APP/K3605/D/19/3239715

5 Knowle Park, Cobham, Surrey KT11 3AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Dean Sexton against the decision of Elmbridge Borough Council.
 - The application Ref 2019/0620, dated 2 March 2019, was refused by notice dated 12 September 2019.
 - The application sought planning permission for a two-storey front extension, new front porch, single-storey rear extension, roof extension incorporating rear dormer windows and alterations to fenestration following partial demolition of existing house without complying with conditions attached to planning permission Ref 2018/0852, dated 29 May 2018.
 - The conditions in dispute are Nos 2 and 3 which state:
Condition 2: 'the development hereby permitted shall be carried out in strict accordance with the following list of approved plans: 570/005, 570/001 Rev B, 570/003 Rev B and 570/004 Rev B received on 16th March 2018 and 570-002 Rev C received on 3rd April 2018'
Condition 3: 'the development shall not be erected other than in the following materials:
Walls: Stucco render at ground floor level, brick at first floor level
Roof: Slate tiles
or such other materials as have been approved in writing by the borough council'.
 - The reasons given for the conditions are:
Condition 2: 'to ensure that the development is carried out in a satisfactory manner'
Condition 3: 'to ensure that a satisfactory external appearance is achieved of the development in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015'.
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Decision

1. The appeal is allowed and planning permission is granted for a two-storey front extension, new front porch, single-storey rear extension, roof extension incorporating rear dormer windows and alterations to fenestration following partial demolition of existing house at 5 Knowle Park, Cobham, Surrey KT11 3AA in accordance with application Ref 2019/0620 dated 2 March 2019, without complying with condition numbers 2 and 3 set out in planning permission Ref 2018/0852 granted on 29 May 2018 by the Council but otherwise subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 570/005; 570/002 Rev C received on 4 March 2019; 570-001 Rev E and 570-003 Rev E received on 15 May

2019; and 570-004 Rev F received on 5 June 2019.

- 2) The development shall not be carried out other than in the materials indicated on drawing nos. 570-003 Rev E received on 15 May 2019 and 570-004 Rev F received on 5 June 2019.

Application for costs

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

Procedural Matters

3. Prior to the Council's determination of the application, the appellant provided amended plans to address inaccuracies identified by the Council in the drawings originally submitted. The Council based their decision on these amended plans, and I have considered the appeal accordingly.
4. The appellant has questioned whether the development proposed under the appeal should require planning permission. However, this is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It would be open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act, and any such application would be unaffected by my determination of this appeal.

Background and Main Issues

5. The application which is the subject of this appeal is made under Section 73A of the Town and Country Planning Act 1990 for a minor material amendment to planning permission granted by the Council under its reference 2018/0852 for a two-storey front extension, new front porch, single-storey rear extension, roof extension incorporating rear dormer windows and alterations to fenestration following partial demolition of existing house.
6. The development has been carried out without compliance to condition 2 which relates to the approved plans, and condition 3 which relates to the materials to be used, and at the time of my visit was nearing completion. The appeal proposes to vary these conditions to specify updated plans and details which reflect the changes made to the development.
7. From the information before me, the Council's concerns relate only to the proposed single dormer with Juliet balcony which is now proposed to the rear roofslope in place of the 3 dormer windows previously approved which would be effected by the modification sought to the plans approved under condition 2. The Council consider that the rear dormer which is now proposed is harmful to the character of the area and that it results in a loss of privacy for the occupiers of neighbouring dwellings.
8. In this context, the main issues in this appeal are the effect that varying the conditions would have on:
 - i) the character and appearance of the area; and
 - ii) the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy.

Reasons

Character and Appearance

9. The appeal site is located on Knowle Park, a residential cul-de-sac of detached dwellings. These are of varying scales, but are typically set within generous plots and overall there is a spacious character to the area. The styles and external finishes of dwellings are mixed, and dormers of varying designs and scales are visible to dwellings nearby, both from the street scene and the path which runs along the side of the appeal site, as well as from within gardens.
10. The Council's Design and Character Supplementary Planning Document Companion Guide: Home Extensions 2012 (HECG) provides guidance that dormers should not dominate the roof by being over large or higher than two or more sides of a hipped roof and that normally the main wall of the house should not be extended up to the dormer.
11. The rear dormer now proposed is of greater height, width and depth than the 3 individual dormers previously approved to the dwelling, but it is still set down from the main roof ridge and there is significant spacing to each side. Although the rear face of the dormer broadly aligns with the main first floor wall of the dwelling, the position of the dormer above the deeper first-floor rear projection which extends partly above the eaves level of the roof reduces the impression of this, softening the visual impact, and it is set back from the roof eaves. The dormer therefore appears proportionate to the host roofslope, and it is not an unduly conspicuous feature in the area.
12. To the rear of the dormer there is full height glazing with railings. However, these are in part screened by the parapet to the deeper first floor rear projection, and the glazing is similar in height to the first floor windows. Despite the size and height of the glazing within the dormer, its central position is sympathetic to the arrangement of glazing at the ground and first floor levels of the dwelling, and there is an appreciable reduction in the overall extent of glazing providing for a hierarchy from ground level up to the roof. Moreover, while I did not see any examples of directly comparable glazing or balconies, given the varied character of the street and the assorted scale and design of fenestration present, it is not a discordant or incongruous feature.
13. The proposal also includes other alterations to the design of the dwelling from that previously approved and to the external materials at first floor level. However, from the evidence before me and my observations including the varied street scene, I am satisfied that even taken together, these are minor alterations which do not significantly alter the development on the site or cause harm to the area's character or appearance.
14. For all of these reasons, I conclude on this main issue that the proposal would not cause harm to the character and appearance of the dwelling or area. Accordingly, I find no conflict with Policy CS17 of the Core Strategy 2011 or Policy DM2 of the Development Management Plan 2015 (DMP) which together broadly seek high quality design that preserves or enhances local character. The proposal also complies with the guidance on dormers within the HECG.

Living Conditions

15. The dormer now proposed includes glazing of greater height and width than was within the individual dormer windows previously approved. I acknowledge

that the dormer is visible from neighbouring sites, and a perceived increase in overlooking is understandable. However, I was able to see on my visit that there is significant separation which limits views from the dormer to neighbouring dwellings and gardens, including those to the rear. Moreover, the views available from this glazing are little different to those that would have been possible under the approved development, where views would have been possible from across a greater width of the roofslope. Given these factors, the development does not result in additional intrusive overlooking which would cause an unacceptable loss of privacy for neighbouring occupiers.

16. I note concerns from interested parties that there would be access from the dormer to an external terrace. However, given the very limited size of the area of flat roof around the dormer it does not offer a usable balcony or terrace space. In any event, the balcony is a Juliet-style with the railings set nearly flush to the dormer which restricts access and which does not allow external standing space which could give rise to harmful overlooking.
17. The proposal also includes alterations to fenestration and the addition of rooflights. However, given the level of these and the relationship with neighbouring dwellings I do not find that this results in unacceptable overlooking in comparison to the approved development.
18. In relation to this main issue I therefore conclude that the proposal does not cause unacceptable harm to the privacy or living conditions enjoyed by neighbouring occupiers. Accordingly, I find no conflict with Policy DM2 of the DMP which requires that development protects the amenity of adjoining occupiers, and the development complies with guidance within the HECG that extensions should not result in significant loss of privacy.

Other Matters

19. I have given careful consideration to representations made about the proposal. Although the application has been made retrospectively, this is not a reason to withhold planning permission, and given my conclusions on the main issues, I see no reason the proposal would lead to harmful development nearby. There is also no substantive evidence of any harm caused by light pollution.
20. I note the appellant's concerns with regard to the application process and liability for the Community Infrastructure Levy, but these are not matters which affect my consideration of the planning merits of the appeal.

Conclusion and Conditions

21. For the reasons given above, I conclude that the proposal would comprise a minor material amendment to that previously approved and the appeal should be allowed. As a consequence, a new planning permission is created without the disputed conditions imposed on the previous decision, but substituting replacement conditions which list the approved drawings and refer to external materials as indicated on these. These modified conditions are necessary in the interests of certainty, and to safeguard the character and appearance of the area.

J Bowyer

INSPECTOR