
Appeal Decision

Site visit made on 10 March 2020

by Robin Buchanan BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2020

Appeal Ref: APP/K3605/D/20/3244421

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 application Ref 2019/2601, dated 16 September 2019, was refused by notice dated 17 December 2019.
 - The development proposed is an oak pergola in the car parking bays on the driveway.
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Decision

1. The appeal is allowed and planning permission is granted for an oak pergola in the car parking bays on the driveway at 1 The Rythe, Copsem Lane, Esher KT10 9HL in accordance with the terms of the application, Ref 2019/2601, dated 16 September 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The appellant's description of the proposed development includes wording that relates to the merits of the case. I have omitted this wording in the interests of clarity.

Main Issue

3. The main issue is the effect of the oak pergola on the character and appearance of the area.

Reasons

4. 1 The Rythe is a large two storey detached house. It faces Copsem Lane with a deep and wide front garden and driveway, behind a 2 metre high timber close boarded boundary fence. Inside the fence is a laurel hedge about 2.5 metres high. There are also mature trees along the roadside, some individually protected by a Tree Preservation Order.¹ This general arrangement of houses and gardens screened by existing fences, hedges and trees is repeated along both sides of Copsem Lane.
5. The proposed pergola would be a detached mainly open, natural oak wood structure with a horizontal 'roof'. It would be sited in the front garden, forward of the house and close to Copsem Lane. A pergola of this conventional design and appearance is not an unusual or unexpected addition to a residential

¹ EL.314, confirmed by the Council without modification on 9 June 1989.

property and would generally be used for landscaping and/or to provide shelter in domestic gardens. In this appeal it would be used as a car port over two existing car parking spaces, to the north of a garden outbuilding.² Consequently, in form and function it would have an innocuous association with the house and would be congruous within its residential curtilage.

6. A small part of the pergola structure (roof) would be taller than the fence. It would be near the garden outbuilding and also observed in conjunction with taller foreground and background planting along this part of Copsem Lane. It would also be seen in the context of other nearby buildings, including the house on the appeal site. Therefore, even if this part of the pergola was not screened by the existing laurel hedge, the limited projection of the structure above the fence would not be unduly prominent or conspicuous in any public views.
7. Many garages and extensions elsewhere along Copsem Lane are set forward of their host dwellings. These are also generally significantly larger and more substantial buildings than the pergola before me which, arguably, is not a garage in the traditional sense nor is it an extension. The pergola is therefore distinguishable from the broad aims of the guidance on garages and extensions in the Council's supplementary planning documents³. In any event, the development would not cause material harm to the character and appearance of the area for the reasons I have set out above.
8. The development would therefore accord with Policy CS7 of the Elmbridge Core Strategy (July 2011) and Policy DM2 of the Elmbridge Local Plan Development Management Plan (April 2015) and there would be no conflict with the Council's supplementary planning documents. These policies include that development should preserve or enhance the character of the area and are generally consistent with the design policies of the National Planning Policy Framework (February 2019), in particular paragraphs 124, 127(a)(b) and (c) and 130.

Other Matters

9. In contrast to the proposed pergola the garden outbuilding has a taller, pitched gable roof and is more 'solid' in form and appearance. It is nonetheless a relatively small building, including footprint, and there would be a noticeable gap between the siting of these two structures. Consequently, the proposed development would cause no cumulative harm to the character and appearance of the area.

Conditions

10. In addition to the standard time limit condition I have imposed conditions specifying the approved plans and materials to ensure certainty and high quality design. I have also imposed conditions to ensure that existing trees and hedgerows are retained and protected (and replaced if necessary).
11. The development would need to be carried out in accordance with these conditions and details. It is not therefore necessary or reasonable to impose a further condition, as is otherwise suggested by the Council, requiring a 'pre-commencement meeting on site'.

² Retrospectively granted planning permission at appeal on 16 July 2019 (APP/K3605/D/19/3221422).

³ 'Design and Character' SPD and 'Companion Guide: Home Extensions' SPD, April 2012.

Conclusion

12. For the reasons given, the appeal is allowed.

Robin Buchanan

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: block plan (drawing number 00 Rev 01, dated 20/10/19), proposed elevation plan (drawing number 00, dated 1/9/19), tree survey plan (drawing number 00, dated 20/10/19).
- 3) The pergola hereby permitted shall be constructed in natural oak wood.
- 4) No development, including groundworks, shall take place and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until a plan and details of the following have been submitted to and approved by the Local Planning Authority in writing:
 - (a) The measures to protect existing trees and hedges during construction works; and
 - (b) The arrangements for associated delivery and storage of equipment, machinery and materials including any mixing or cleaning area.

The development shall be implemented and carried out in strict accordance with the approved details and maintained for the duration of the construction works.

- 5) All existing trees, hedges or hedgerows shall be retained, unless shown on the approved plans as being removed and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the completion of the construction works:
 - (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 details. 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.