
Appeal Decision

Site visit made on 7 December 2020

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2020

Appeal Ref: APP/P3610/D/20/3256573

39A Alexandra Road, Epsom KT17 4DA

- 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 H Jouhara against the decision of Epsom & Ewell Borough Council.
 - The application Ref 20/00605/FLH, dated 30 April 2020, was refused by notice dated 6 July 2020.
 - The development is erection of car port, boundary fence and entrance gates.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The car port, boundary fence and entrance gates were in situ at the time of my site visit. I have determined the appeal on the basis that planning permission is being sought retrospectively for their erection.

Main Issues

3. In light of the decision notice, officer report and neighbour representation, I consider the main issues to be the effects of the development on the street scene and the protected tree within the curtilage of 39 Alexandra Road.

Reasons

Street scene

4. Alexandra Road is lined on both sides by detached houses set back from the road behind a well-defined building line. The locality has an attractive verdant character, with trees and greenery contributing positively to the street scene. Front boundary treatments mainly comprise a mix of domestic hedging and low brick walls, and sometimes a combination of both. Most properties have an area of hardstanding to the front for parking but I saw no structures forward of the prevailing building line; where they exist, garages are positioned to the side of dwellings. Driveway entrances are generally ungated, but in the small number of cases where they are not householders have opted for a permeable design of gate which maintains views into the site.

5. A photograph within the appellant's statement shows that 39A Alexandra Road was once similar to other properties in having an ungated driveway entrance, with the remainder of the front boundary being defined by a hedge on top of a low brick wall. The entire frontage has since been enclosed by the erection of fencing on top of the existing dwarf walls and solid timber gates across the entrance. This is not a particularly wide plot in comparison with others in Alexandra Road, but nonetheless the impact of the new boundary treatment within the street scene is significant. The gates and fencing stand out as a stark and discordant feature in views along the road. There are other fenced frontages nearby, notably at the corner of Kingsdown Road, but these are in the minority and they are not representative of Alexandra Road as a whole. Some of the examples I witnessed are detrimental to the character and appearance of the area and do not lend support to the appellant's case.
6. The car port comprises a gently curving canopy supported by two cantilevered metal posts. The structure is inconspicuous when approaching the site from Epsom town centre, with views being broken up by vegetation. However, the car port is more prominent from the south-east where it is seen with the new gates and fencing in the foreground. Although of contemporary design and lightweight construction, the canopy is incongruous due to its siting forward of the dwelling; this is at odds with the prevailing character of Alexandra Road. The adverse impacts are exacerbated by the visually harsh front boundary treatment and the lack of any vegetation along the frontage.
7. Individually and cumulatively, the gates, fencing and car port are materially harmful to the street scene of Alexandra Road. There is conflict with Policies CS1 and CS5 of the Core Strategy 2007 and Policy DM9 of the Development Management Policies Document (2015) (DMPD), insofar as these seek high quality design which has regard to local character and the existing townscape.

Protected tree

8. I have not been provided with any calculations or a plan, but it is self-evident that the car port falls within the root protection area of a mature beech tree in the grounds of No 39. This large specimen has a tree preservation order (TPO) in recognition of its significant contribution to the amenity of the area. The Council makes no reference to the impact on the tree but I concur with the neighbour that this is a relevant material consideration, particularly bearing in mind Policy DM5 of the DMPD which seeks to protect the Borough's trees.
9. As acknowledged within the appellant's tree report, there is potential for harm to the tree arising from mechanical damage to root systems and the use of materials such as cement. The appellant describes the car port foundations as shallow, but I have no information on the detailed method of construction, the dimensions of any holes or trenches required to secure the metal uprights, the extent of any cutting of roots or the volume of concrete poured into the ground. In the absence of this information it is impossible to draw any conclusions on the lasting effects on the tree. That development has already taken place is not adequate reason to ignore the issue, since it is conceivable that removal of the car port could limit any harm and allow the root system time to recover.
10. Retention of the TPO tree is important to the street scene of Alexandra Road. The appellant's failure to properly demonstrate that permanent harm will not result from retention of the car port leads to conflict with DMPD Policy DM5.

Other Matters

11. I am told that there have been multiple incidences of falling branches causing damage to car bodywork. No evidence is provided of any injuries arising from tree debris. Although I appreciate the desire to protect human life and prevent damage to property, these factors are outweighed by the harm to the street scene arising from the undue prominence of the car port structure.
12. The appellant is fearful that he and his family will be the victims of car theft and vandalism. Prior to the erection of the gates and fencing there were instances of litter and trespass. Whilst I acknowledge the concern, and note the local crime statistics, there is no evidence to demonstrate that the same level of security cannot be achieved by less obtrusive means such as hedging and decorative metal gates. I have taken account of crime and disorder, and the fear of crime, as material considerations, but they do not alter my overall findings.
13. It is put to me that the gates and fencing would be permitted development if more than 1 m from the highway. There are no hard and fast rules on what constitutes 'adjacent to a highway' in the context of the regulations. It is a question of fact and degree determined on the individual merits of the case. I am not convinced by the appellant's contentions and in the absence of a Certificate of Lawfulness I have attached the fallback argument limited weight.
14. I have taken into consideration all other points raised in the evidence, including the choice of hardwood as a construction material for the fence and gates and the decision notice appertaining to a recently refused tree works application. However, there are no other matters to lead me to a different conclusion.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR