
Appeal Decision

Site visit made on 26 April 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 05 May 2021

Appeal Ref: APP/P3610/W/20/3258490

39 Manor Green Road, Epsom KT19 8RN

- 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 Ian Horner against the decision of Epsom and Ewell Borough Council.
 - The application Ref 20/00525/FUL, dated 29 March 2020, was refused by notice dated 2 June 2020.
 - The development proposed is described as, change of use of gym/yoga studio, comprising a single-storey, 40m² building into a residential dwelling. The only external works required will be some landscaping, the rest is internal.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's first reason for refusal of the scheme makes reference to the 'living standards of the original property'. The original property would generally be understood as the dwelling currently standing at 39 Manor Green Road, rather than the studio, which is a recently constructed outbuilding. It is however clear that the Council intended to refer to the studio in drafting its reasons for refusal. I have therefore assessed the appeal on that basis.

Main Issues

3. The main issues are the effects of the development on:
 - the living conditions of future occupants of the proposed dwelling in relation to the provision of outdoor amenity space; and
 - the character and appearance of the area.

Reasons

Living conditions

4. The single storey studio building in question is located towards the end of the back garden of No 39. In this regard the plans submitted with the application identify both the property as whole and the studio building on its own as the 'site'. They do not show that the back garden of No 39 would be severed, or therefore that any dedicated outdoor space would be attached to the proposed dwelling. Consequently, were the appeal to be allowed on the basis of these plans, the proposed dwelling would in effect stand within the back garden of No

39. This would not be unexpected were the building to be used as an annexe. However, in this case the proposal is for use of the studio as a separate dwelling.
5. Despite the above, 'landscaping' is included within the original description of development. The Council furthermore assessed the scheme on the basis that outdoor amenity space would be attached to the proposed dwelling. In this regard images were provided within the Design and Access Statement (DAS), and a drawing was provided within the appellant's appeal statement. The space around the building already contains much of the landscaping these show.
 6. In assessing the scheme, the Council made reference the amount of amenity space that should be provided for a one bedroom flat. This is currently set out within the supporting text of Policy DM12 of the Development Management Policies Document 2015 (the DMP), which addresses housing standards. The dwelling would not however be a flat. Despite the fact that the supporting text of Policy DM12 contains no guidance specifically relating to a one bedroom house, Policy DM12 does itself set out a range of considerations which more generally govern the provision of amenity space.
 7. A single future adult occupant of the dwelling would, at bare minimum, reasonably require sufficient space to dry washing, and to sit out, either alone, or with visitors, in addition to space to store bins and a bicycle. In this regard the appellant's appeal statement indicates that the total area of outdoor amenity space available to future occupants of the dwelling would total 67m². This area would be made up of the linear spaces, or 'gaps', on all 4 sides of the building, apparently excluding the parking space, but including space to store bins and a bicycle.
 8. These linear spaces provide a maximum width between the building and boundary of 3 metres on the south and east sides of the building, and 2 metres on the west side. That on the north side would have a maximum width of 50cm. Whilst the latter would provide little or no amenity value, some limited use for planting and storage is currently being made of the spaces on the east and west sides of the building. Most of this space is and would however be required to enable circulation around and access into the building. Though the appeal drawing suggests that the space on the west side of the building might additionally be used to hang a washing line, it is unlikely that this would be capable of much practical use given the restricted dimensions of the space.
 9. A compact patio seating space has been provided on the south side of the building. This is located immediately adjacent to the parking space. Installation of a gate between has been suggested, however the relationship would be very tight, with the gates partially opening across the space. In common with other spaces around the building, the seating space would otherwise be heavily enclosed, and furthermore shaded for most of the day, in this case by a tree. This stands on land immediately towards the south, and partly overhangs the boundary. As the tree appears to show considerable potential for further growth, the extent of shading can be expected to increase in the future.
 10. Therefore, whilst it is apparent that the space on the south side of the building is large enough to accommodate a bistro set, or alternatively a small rotary clothes airer, its quality, usefulness, and attractiveness for these purposes both is, and would be very limited. Given that the amenity value of spaces on the east, west and north sides of the building both is and would also be very

limited, the quality and functionality of the space indicated would as a whole be very poor.

11. Dwellings within the surrounding area are characterised by the provision of large back gardens in addition to space on the street frontage. As such, there is no obvious parallel for the cramped arrangement and poor standard of amenity space indicated in this instance, or therefore any scope to justify it on that basis.
12. In view of my findings above, even if dedicated use of the space around the proposed dwelling could be secured for its future occupants, the quality of this space would be unacceptable.
13. For the reasons outlined above I conclude that the development would provide unacceptable living conditions for future occupants of the proposed dwelling in relation to the provision of outdoor amenity space. It would therefore conflict with Policy DM12 of the DMP, which seeks to secure amenity space which is, amongst other things, usable, functional, of a sufficient size and orientated to take account of shading; and Policy CS5 of the Core Strategy 2007, which seeks to secure functional private environments.

Character and appearance

14. No 39 stands at the junction of Manor Green Road with Hamilton Close, with the back garden bordering the latter. As such the studio has a visual presence in Hamilton Close, from within which it appears as an outbuilding within the garden of No 39.
15. Within the parts of Manor Green Road and Hamilton Close nearest the site, the streets are predominantly characterised by the presence of detached and semi-detached 2-storey dwellings. Whilst chalet bungalows and a scattering of single storey bungalows also exist, there are no examples of dwellings whose scale, form and design bears any resemblance to that of the studio.
16. Without doubt therefore, a dwelling of the studio's design and in the studio's location would appear starkly at odds with the prevailing pattern. The studio is however an existing building, and the development would not entail any changes to its external appearance. In this case therefore, the effect the development would have on the character and appearance of the area would depend largely on the extent to which use of the building as a separate dwelling, rather than as an outbuilding, was perceived.
17. The garden of No 39 is largely enclosed by a high boundary wall. A change in use of the studio might be highlighted by lowering of the wall to provide a more open frontage. However, whilst this is shown within the DAS, it is not shown on any plan, and would not be essential in order to provide an outlook. The building could thus remain as enclosed as it is at present, and no more visually prominent within the streetscene.
18. As noted above, most of the space around the studio is already laid out in the manner indicated. Little of it is or would be visible from within the street. Moreover, whether or not the use of the studio changed, the parking space could be used by the occupants of No 39. In practice therefore the only indications of a change in use might perhaps be in the display of a name or number, or the periodic placement of bins on the street frontage. These indicators being of such modest nature, it appears unlikely that the change in

use would be broadly perceived. Consequently, it is also unlikely that the change would be broadly perceived as harmful to the character and appearance of the area.

19. For the reasons set out above I conclude that the development would not have an unacceptable effect on the character and appearance of the area. It would therefore comply with Policy DM9 of the DMP, which seeks to secure development that is compatible with local character; and Policy DM10 of the DMP and Policy CS5 of the CS, to the extent that these seek the same. This would not however alter the existence with overall conflict with Policy CS5, given my findings in relation to living conditions above.

Other Matters

20. At the time of the application the appellant indicated that the change of use would help facilitate self-isolation during the Covid-19 pandemic. The pandemic was then in its very early stages. Circumstances have moved on since, and this matter has not been pursued within the context of the appeal. I have therefore considered it no further.
21. In view of my findings above, the scheme would conflict with the development plan when taken as a whole. The Council however acknowledges that it does not have a demonstrable 5-year supply (5YHLS) of deliverable housing sites, and that the shortfall is significant. The policies most important for determining the application are therefore out of date, and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework (the Framework) taken as a whole.
22. The Framework seeks to boost the supply of housing. However, the social and economic benefits arising from the provision of a single one-person dwelling within an accessible location would however be very limited in scale, both in themselves and in relation to a 5YHLS shortfall of any given size.
23. In this case the benefits would be further reduced by the fact that the development would not provide acceptable living conditions for future occupants. In this regard it would conflict with the objective of ensuring that developments promote a high standard of amenity for future users, set out within paragraph 127 of the Framework. That being so, I cannot attach any weight to the scheme's provision of housing.
24. I find therefore that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. Consequently, the instruction to grant permission set out in paragraph 11 does not apply.

Conclusion

25. The development would conflict with the development plan as a whole, providing unacceptable living conditions for future occupants. There are no other considerations which alter or outweigh this finding. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR