



Appeal Decision

Site visit made on 24 January 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/K3605/W/22/3302833

Prince Of Wales, 48 West End Lane, Esher KT10 8LA

- 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 Greene King Plc against the decision of Elmbridge Borough Council.
 - The application Ref 2021/0413, dated 2 February 2021, was refused by notice dated 29 March 2022.
 - The development proposed is single-storey side and rear extensions; extension of car park; improvements to outdoor seating areas.
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Decision

1. The appeal is allowed and planning permission is granted for single-storey side and rear extensions; extension of car park; improvements to outdoor seating areas at Prince Of Wales, 48 West End Lane, Esher KT10 8LA in accordance with the terms of the application, Ref 2021/0413, dated 2 February 2021, subject to the conditions in the attached schedule.

Preliminary Matter

2. The reason for refusal incorrectly refers to Policy D126 of the Elmbridge Local Plan Development Management Plan 2015, rather than Policy DM12. The appellant identified this mistake within their statement and so I am satisfied that they were not prejudiced by it.

Main Issue

3. The main issue is the effect of the proposed development on the character or appearance of the West End Conservation Area (WECA).

Reasons

4. The appeal site, which is located within the WECA, comprises the existing Prince of Wales public house, its gardens and car park. In determining this appeal I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the WECA.
5. From what I have read and from what I saw when I visited the site and the surrounding area, the significance of the WECA, in so far as it is relevant to this appeal, is derived from it encompassing part of a village within a semi rural setting that overlooks part of the Common as well as the Green and ponds.
6. Buildings are generally of similar scale and character and together with their positioning and the space around them are contributory defining features to the

significance of the WECA. The Prince of Wales is a large and prominent building that contributes positively to the general attributes of the area.

7. The proposed extensions to the building are to the side and rear. They would be subservient to the main elements of the public house and designed to complement it. The proposal would also entail a western extension of the existing car park that is to the rear of the building. The Council has not raised any objections to these elements of the scheme in and of themselves. Based on the evidence before me and my own observations I have no reason to conclude otherwise.
8. However, these works would result in the loss of part of the pub's rear garden and the loss of an existing Lawson Cypress tree. The tree is subject to a preservation order.
9. The rear part of the garden is currently used for customer seating. There is some limited boundary planting but the site's openness is generally in keeping with this part of the WECA. Although the extension of the car park would represent a loss of an undeveloped grassed area, and parked cars can have a temporary effect on openness, the overall sense of openness would largely be retained. The area is not widely visible from the public realm, although neighbouring occupiers will have some views across this area. However, given that additional boundary planting is proposed, I am satisfied that whilst views of this part of the site would change, the overall effect on the WECA would be neutral.
10. The Lawson Cypress tree has a wider prominence, being visible from outside the site and contributes to the amenity of the wider area. However, it appears to be in need of some active management and its proximity to the pub building is no doubt a limiting factor to its growth and prominence. The loss of the tree would nevertheless have a negative effect on the WECA.
11. As part of the scheme, three replacement trees are proposed. Two would be capable of attaining at least 15m in height and one capable of attaining at least 10m in height. Unfortunately, a detailed planting scheme has not been prepared and the main parties disagree over exactly where the replacement trees would be planted on the site. I have additionally sought the views of the main parties on this issue and more generally the capacity of the site to accommodate three large replacement trees.
12. Neither party has indicated that the site would not have the capacity to accommodate these trees. However, from my observations on site and from the evidence before me, it seems highly unlikely that all the trees would be able to be accommodated towards the front of the site. It seems to me that at least one of the larger trees would be likely to have to be positioned deeper into the site. This would no doubt assist in improving the landscaping to this part of the site although could slightly diminish its wider prominence.
13. However, with two trees being capable of attaining a minimum of 10m in height positioned closer to the front of the site the replacement planting would be both prominent in the immediate vicinity and sufficiently conspicuous in more distant views. I am therefore satisfied that the replacement tree planting would compensate for the loss of the Lawson Cypress tree. Overall, this aspect of the proposal would not have a harmful impact on visual amenity, when viewed from the public realm or on the character or appearance of the WECA.

14. Taking all of the above into account, I find that the proposal as a whole would not cause harm to the character or appearance of the WECA. As such, it would accord with Policy CS17 of the Elmbridge Core Strategy 2011 and Policies DM6 and DM12 of the Elmbridge Local Plan Development Management Plan 2015 which, amongst other things, seek to ensure that the contribution conservation areas and trees make to local character is not harmed by new developments.

Other Matters

15. The extensions to the building would not cause harm to the wider area. They would not be particularly visible to neighbours' and are not positioned where they are likely to harm their outlook or privacy. The existing grounds are already used by customers and contain movable tables and chairs. Although the submitted drawings show additional tables and chairs within the grounds, they could be provided regardless of the outcome of this appeal.
16. There will be an increase in customer numbers and the submitted details indicate a maximum number of covers, both for the internal and external spaces. The Council does not consider the additional customer numbers are likely to harm the living conditions of neighbours given the separation distances and boundary planting. Based on all of the above, I have no evidence to conclude otherwise.
17. The site is currently operational and so generates noise from customers as well as any existing plant and machinery on site. A report has been submitted with the scheme which provides a noise assessment and evaluation with regard to external air conditioning and kitchen extract plant to serve the pub. It concludes that the retention of the plant and equipment, subject to upgrading the acoustic arrangements should ensure that during the hours of operation it is unlikely to have an adverse impact on nearby residential occupiers. I have no reason to conclude that its findings are not robust, or the measures proposed are unachievable.
18. The Highway Authority has not objected to the proposal on highway safety or capacity grounds. Whilst I recognise that any overspill car parking could cause some inconvenience to neighbouring occupiers, based on my own observations and the evidence before me, I am unable to conclude that it would cause unacceptable harm to their living conditions.

Conditions

19. In addition to the standard time limit, a condition is required in the interests of certainty that lists the approved plans. It is also necessary to ensure the development accords with the external materials, travel plan, noise and flood mitigation measures set out in the submitted drawings and reports.
20. It is necessary for conditions to secure landscaping details for the site, particularly along the site's northern and western boundaries where it is most exposed to external views. Conditions securing the provision and maintenance of the replacement trees is also necessary.
21. To ensure there is not undue harm to neighbours' living conditions, a limit on the number of customers using the outside area is reasonable. Given the extent of the groundworks involved, a condition addressing unexpected contamination is also included.

Conclusion

22. I have found that the proposal would preserve the character and appearance of the conservation area. It would therefore accord with the development plan when taken as a whole. There are no other considerations that outweigh my findings. Accordingly, I conclude that the appeal should be allowed.

Stewart Glassar

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:
Location Plan
Proposed Site Plan - P-05
Proposed Plan - P-06
Proposed Roof Plan - P-07
Proposed External Elevations - P-08
Environmental Noise Assessment Report - ENL Acoustic Consultants (October 2020)
Arboricultural Statement - Cheshire Woodlands (11 January 2021)
Travel Plan Statement - Motion (20 November 2020)
Flood Risk Assessment and Drainage Strategy Report – Glanville Consultants (27 January 2021)
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the application form and approved plans.
- 4) Prior to the development hereby permitted being brought into use, all flood mitigation measures shall be carried out in accordance with the approved details set out in the flood risk assessment prepared by Glanville Consultants dated October 2020.
- 5) Prior to the development hereby permitted being brought into use, all noise mitigation measures shall be carried out in accordance with the approved details set out in the noise assessment prepared by ENL Acoustic Consultants dated October 2020.
- 6) Prior to the development hereby permitted being brought into use, all Travel Plan measures and initiatives shall be carried out in accordance with the approved details set out in the Travel Plan Statement by Motion dated 20 November 2020.
- 7) Prior to removal of the Lawson Cypress tree (T7 on the Cheshire Woodlands Arboricultural Statement dated 11 January 2021) full details of the replacement tree planting (2 of which must be capable of attaining at least 15m in height and 1 capable of attaining at least 10m in height), including types, position, implementation programme; and scheme of management and/or maintenance shall be submitted to and agreed in writing by the Local Planning Authority. The approved replacement tree

planting and associated measures shall be carried out in accordance with the approved details.

- 8) Prior to any development (including groundworks and demolition), within 5m of the tree protection area, as annotated in the Cheshire Woodlands Arboricultural Statement dated 11 January 2021, a site meeting shall be held on site and attended by a suitably qualified arboriculturist, representative from the Local Planning Authority and the site manager/foreman. The site meeting is required to ensure operatives are aware of the agreed working procedures and the precise position of the approved tree protection measures. By the date of the meeting all tree protection measures shall have been fully installed in accordance with the approved tree protection plan and details set out in the Cheshire Woodlands Arboricultural Statement dated 11 January 2021.
- 9) Once installed in accordance with the approved details, the agreed tree protection measures shall be retained for the course of the development works. The development thereafter shall be implemented in strict accordance with the approved details and method statements contained in the Cheshire Woodlands Arboricultural Statement dated 11 January 2021.
- 10) No development shall commence above slab level until details of the soft landscaping works have been submitted to and agreed in writing with the Local Planning Authority. The works shall include planting plans; written specifications (including cultivation and other operations associated with plant establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; implementation programme; and scheme of management and maintenance of retained and proposed planting.

The soft landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and maintained in accordance with the approved scheme of management and maintenance.
- 11) Any planting comprised in the approved details of soft landscaping works that 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.
- 12) The maximum number of customers using the outdoor area shall not exceed 176 at any time.
- 13) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

END.