



Appeal Decision

Site visit made on 18 December 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 26th January 2024

Appeal Ref: APP/K3605/W/23/3325042

Evenshade, 15 Sandown Road, Esher KT10 9TT

- 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 & Mrs Bjurstrom against the decision of Elmbridge Borough Council.
 - The application Ref: 2022/2980 dated 30 September 2022, was refused by notice dated 15 May 2023.
 - The development proposed is demolition of existing dwelling and construction of new dwelling with associated garaging and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and construction of new dwelling with associated garaging and landscaping at Evenshade, 15 Sandown Road, Esher KT10 9TT in accordance with the terms of the application, Ref: 2022/2980 dated 30 September 2022, subject to the conditions set out at the end of this decision letter.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2023. Although some of the paragraph numbering has changed, I do not consider that there are any material changes in the Framework, pertinent to this appeal proposal. It is not therefore necessary to seek the views of the Appellant or the Council on the revised Framework.

Main Issues

3. The main issues in this appeal are:
 - a) The effect of the proposal on the character and appearance of the local area, and
 - b) The effect of the proposal on the living conditions of the surrounding neighbours.

Reasons

Issue a) Character and Appearance

4. The appeal property is a large detached property on the north-east side of Sandown Road to the immediate east of the junction with Ashburnham Park. The house, over two storeys, sits on a generous sized plot, fronting Sandown

Road, and with a side boundary along Ashburnham Park. The surrounding, predominantly residential area similarly comprises a variety of large, detached properties of a variety of designs, mainly on generous verdant plots. Within the Council's Design and Character Supplementary Planning Document Companion Guide: Esher (Esher SPD), the appeal site and surrounding area falls within part of the Council's Sub Area ESH02: New Road, Esher Park Avenue and Milbourne Lane, which is characterised as mainly comprising large detached houses on generous plots.

5. The proposal would seek to replace the existing dwelling with a two storey dwelling with rooms in the roof. Between the main house and the adjoining property there would be a large attached garage with accommodation over. The main part of the house would occupy a different siting within the plot to the existing, coming a little closer to Ashburnham Park but further away from the boundary with the adjoining property at No 17. There would be a single storey extension to the rear of the south eastern part of the proposed house and garage, along almost the full length of the boundary with No 17. It would accommodate an indoor swimming pool and ancillary accommodation.
6. The predominant pattern of development within the immediate vicinity of the local area comprises substantial detached houses set on a range of generous plot sizes, in a verdant setting. Rear gardens are generally screened from view along Sandown Road, although both glimpsed and more open views are possible into some garden areas, including of the appeal site from Ashburnham Park. In such views, built development is seen together with garden spaces. The overall character and appearance of this residential area is therefore of large dwellings in a generally verdant setting.
7. The proposed house would be of a different design to the existing house, but not dissimilar to some of the more recent developments within Sandown Park. From the front, I consider that size and design of the proposed dwelling would be readily accommodated within the plot, leaving appropriate margins to the sides. It would be taller than the existing house but given the varied heights of the dwellings within Sandown Road, I consider that the proposal would not appear over prominent. There are also other examples of houses with crown roofs with rooms in the roof in the immediate vicinity and so it would not be visually discordant in the street scene in terms of its roof form.
8. The siting of the proposed house would respect the general building line, with comfortable spacing to the adjoining property and to Ashburnham Park. In the context of the varied street scene, with a variety of mainly individually designed properties, I consider that the proposed replacement dwelling would integrate with the varied street scene and respect the predominant pattern of development of large dwellings in verdant settings.
9. In respect of the single storey rear addition, I am not persuaded by the Appellant, on the basis of the information provided, that this form of development is already exemplified in the local area, but the absence of other similar structures does not, in itself, weigh against the proposal. The proposed rear addition would be of modest height and width, particularly in relation to the proportions of the proposed replacement dwelling. Notwithstanding its length, it would be a subordinate addition to the scale and massing of the main dwelling. A significant area of open garden would remain to serve the new

dwelling and as a result, the overall development would not appear cramped within or an overdevelopment of the plot.

10. At the time of my site visit there were a number of views into the rear garden and towards the existing property and neighbouring properties from Ashburnham Park. The proposed landscaping plan includes for further planting along this boundary and the implementation of these landscaping proposals could be secured by condition. Some glimpsed views may still be possible, particularly during the winter months, but the single storey addition would be seen in the context of the open garden area and larger scale and massing of the main house. Notwithstanding its length, I do not therefore consider that the single storey extension would appear overly dominant or visually intrusive in street scene views.
11. I am therefore satisfied that the proposed replacement dwelling including the single storey rear addition would respect the character and appearance of the local area. There would be no conflict with Policies CS9 and CS17 of the Council's Core Strategy, Policy DM2 of the Development Management Plan (DM Plan), the Design and Character SPD (SPD) and the Framework, with particular reference to section 12, all of which, amongst other matters, seek a high quality of development which respects the local context.
12. The Appellant has drawn my attention to an appeal decision in the same Borough but within a different local area, where permission was granted for a replacement dwelling with a *single storey projection of considerable depth* to the rear, under the Ref APP/K3605/W/17/3178318. However, each proposal must be considered on its individual merits and this has been the basis of my assessment in this appeal.

Issue b) Living Conditions

13. The adjoining property at No 17 is set at a slight angle to the appeal site so that most if not all of its rear facing windows face towards the north-east and therefore away from a direct line of vision over the appeal property. This neighbouring property also benefits from a generous plot and an open swimming pool along the common boundary with the appeal site. There is hedging and planting along the common boundary.
14. The proposed garage to serve the new dwelling and part of the extension to the rear would be in line with the main house at No 17 and its garage which is set back behind the rear line of the dwelling under a hipped roof. Beyond that point, the rear addition as proposed on the appeal site would be of modest height and would step down further towards the rear boundary.
15. Notwithstanding the existing planting, I consider that parts of the single storey extension would be seen from the neighbouring garden. Nonetheless given the scale of the proposal, and in particular its height and the intervening planting along the common boundary, I do not agree with the Council that it would result in a significantly overbearing impact and loss of outlook for these neighbours. Furthermore, and notwithstanding the landscaping plan submitted, I consider that there would be scope to add to the planting along the boundary alongside No 17 to supplement the existing planting in order to offer more screening for the neighbours. This would be the subject of a condition and indeed the Appellant has offered to accept such a condition.

16. The Appellant has drawn my attention to the absence of an objection from the neighbours at No 17 and I am further informed that these neighbours would like to undertake a similar form of development. Whilst I have no reason to doubt the statement, there is no clear evidence before me that such a development might be proposed, and ideas and circumstances can change over time. I have not therefore given this statement weight in my decision.
17. The Council has noted that had it been proposing to approve the application, conditions could have been imposed in respect of the proposed rear balcony and the rooflight serving a bathroom, in the side elevation facing towards No 17. I agree that such conditions would be necessary to protect the privacy and therefore the living conditions of the neighbours at No 17.
18. I am satisfied that the neighbours in Ashburnham Park are set at a sufficient distance from the proposed replacement dwelling, and that there would be no harm to their living conditions through overlooking and loss of privacy. In reaching this view I have taken into account the proposed rear facing balcony at first floor level and the modest level changes across the site and local area.
19. The neighbours have referred to the need to retain a minimum garden length of 11m (and 15m in more spacious plots) but my understanding from the Council's SPD is that this often refers to distances between rear elevations to maintain privacy. I have already concluded that there would be no material harm to the living conditions of the neighbours in Ashburnham Park because of the separation distances between the properties. The Council also raised no objection in respect of the impact on the living conditions of the neighbours in Ashburnham Park.
20. Elsewhere in the SPD the depth of gardens is relevant to maintaining the character of the local area. I have already concluded under my first main issue that a generous garden area would be retained that would respect the character and appearance of the local area.
21. Subject to the imposition of conditions as discussed above, I am therefore satisfied that there would be no harm to the living conditions of the immediate neighbours, with particular regard to overlooking and loss of privacy and loss of outlook. There would be no conflict with Policy DM2 of the DM Plan, the SPD and the Framework, and in particular paragraph 135 f) all of which amongst other matters seek to protect the amenities of existing and future occupiers.

Other Considerations

22. A query has been raised regarding whether the correct plot boundaries are shown, but this would need to be separately addressed under other legislation.
23. The Appellant has referred to a fallback position in respect of permitted development rights in respect of domestic outbuildings. However, as I have found the proposal to be acceptable under both of my main issues, there is no need for me to consider this matter further.

Conditions

24. In terms of conditions, I agree with the Council that further details of materials are required to respect the character and appearance of the existing property and of the local area, although I consider that these details can be submitted at an early stage of the build process rather than prior to commencement of

development. The approved plans, including the plans as existing and the plans in the Arboricultural Report, should be listed for the avoidance of doubt and in the interests of good planning.

25. In order to protect the character and appearance of the local area, conditions are required to protect existing trees on site to be retained, including during the construction phase, as well as to require the approved landscaping plan to be implemented. There are further landscaping details which require to be approved, including boundary treatments, additional boundary planting to protect the amenities of the neighbours at No 17 as well as biodiversity enhancements.
26. For the reasons set out above and in order to be effective, it is my view that the conditions relating to these additional landscaping details require to be pre-commencement conditions. In accordance with Section 100ZA (5) of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-Commencement Conditions) Regulations 2018, I have therefore requested and received the Appellant's written agreement to the imposition of this condition.
27. I shall also add a condition, as requested by the Council, to require the side facing window at first floor in the accommodation above the proposed garage to be obscure glazed and fixed shut to a height of 1.7 metres above the finished floor level of the room to protect the amenities of the adjoining neighbours. For the same reason I agree with the Council that a privacy screen to the first floor balcony, is required facing towards No 17.
28. I have included a requirement for an EV charging point to accord with climate change objectives.
29. As development is to be carried out in accordance with the approved plans as listed under Condition 3 and the plans show the provision of covered cycle storage and for refuse bins, I do not consider that specific conditions in respect of the provision of these items are required.
30. I have amended the wording of a number of the conditions to relate more closely to the proposals as submitted.

Conclusion

31. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No development hereby permitted shall take place above slab level, until full details of the materials to be used on the external faces and roof of the proposed development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 21155 (PL) 001, 21155 (PL) 010 Rev A; 21155 (PL) 011 Rev B; 21155 (PL) 050; 21155 (PL) 020 Rev A; 21155 (PL) 101 Rev A; 21155 (PL) 102; 21155 (PL) 103; 21155 (PL) 300; 21155 (PL) 301; 21155 (PL) 302; 21155 (PL) 600; 21155 (PL) 600; P1444/002 Rev A; DPA 6014-02 Rev A; DPA 6014-03 Rev A; 21155 (PL) 021 Rev F; 21155 (PL) 100 Rev G; 21155 (PL) 400 Rev A; 21155 (PL) 200 Rev B and 21155 (PL) 201 Rev B.
- 4) No development including groundworks and demolition and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until all tree protection measures have been installed in the positions identified on the approved tree protection plans: DPA-6014-02 Rev A and DPA-6014-03 Rev A, as contained in the submitted arboricultural report by dpa arboricultural consultants under the Ref: DPA6-14 / AIS / REV1.
- 5) The proposed development shall be carried out in full accordance with the recommendations in the submitted arboricultural report by dpa arboricultural consultants under the Ref: DPA6-14 / AIS / REV1.
- 6) All existing trees, hedges or hedgerows inside the red line site boundary shall be retained, unless shown on the approved drawings as being removed and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first occupation of the proposed development.
 - a) No retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, other than in accordance with the approved plans and particulars.
 - 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.
- 7) Notwithstanding the landscaping plan under Ref: P1444/002 Rev A; prior to the commencement of the development hereby approved written details and plans of the following additional landscaping works shall be submitted to and approved in writing by the local planning authority. These details shall include:

- a) Biodiversity enhancement features, including bat roosting features on site;
- b) height, design, materials and type of boundary treatment;
- c) planting proposals along the boundary with No 17 Sandown Road.

Unless an alternative timescale is agreed in writing with the Local Planning Authority, these landscaping details as approved together with the proposals shown on the approved plan Ref: P1444/002 Rev A shall be carried out in the first planting and seeding seasons following the occupation of the new dwelling hereby permitted or the completion of the development, whichever is the sooner; and any trees or plants which 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.

- 8) The development hereby approved shall not be occupied unless and until the proposed dwelling is provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) and thereafter shall be retained and maintained to the satisfaction of the Local Planning Authority.
- 9) Prior to the first occupation of the development hereby permitted the rooflight at first floor level to the south east (side) elevation of the development hereby permitted shall be glazed with obscure glass and only openable above a height of 1.7m above the internal floor level of the room to which it serves. The window shall be permanently retained in that condition thereafter.
- 10) Before the development hereby permitted is first occupied, details of an obscurely glazed privacy screen measuring 0.95m in depth and 1.8m in height to the south east (side) elevation of the proposed balcony shall be submitted to and approved in writing by the Local Planning Authority. The screen shall be erected as approved prior to the first occupation of the development hereby approved and thereafter retained.