



## Appeal Decisions

Hearing held on 4 September 2024

Site visit made on 4 September 2024

**by Mr R Walker BA HONS DIPTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> September 2024**

---

### **Appeal A Ref: APP/P3610/W/24/3344151**

#### **31 Prospect Place, Epsom KT17 1WW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Ms Susan Stevens against the decision of Epsom and Ewell Borough Council.
  - The application Ref is 23/01507/FLH.
  - The development proposed is single storey side extension.
- 

### **Appeal B Ref: APP/P3610/Y/24/3344152**

#### **31 Prospect Place, Epsom KT17 1WW**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
  - The appeal is made by Ms Susan Stevens against the decision of Epsom and Ewell Borough Council.
  - The application Ref is 23/01508/LBA.
  - The works proposed are single storey side extension.
- 

### **Decision**

1. **Appeal A:** The appeal is dismissed.
2. **Appeal B:** The appeal is dismissed.

### **Preliminary Matters**

3. These decisions address both planning and listed building consent appeals for the same site and the same scheme. To reduce repetition, and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.
4. As the scheme relates to a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). The official list entry describes the name of the property as Synagogue. However, it is now known as 31 Prospect Place, and as such I have used this name throughout my decision.
5. During the hearing it was confirmed that separate applications had been made and determined for an existing boundary fence near No 32 Prospect Place. The appellant requested during the hearing that I consider the fence as part of these appeals. However, whilst the fence is shown on the plans, it is shown as an existing fence in contrast with the proposed gate adjacent to the proposed extension. Moreover, the fence was not stipulated as part of the description, or

any accompanying documents, as being part of the proposal, and separate applications have been made and determined for it. As such, considering the fence as part of these appeals at the Hearing would represent a fundamental change to the scheme and cause procedural unfairness to other parties involved in the appeals and in the separate applications for the fence. In this regard, the fence does not fall to be considered as part of these appeals and I have determined the appeals on this basis.

## **Main Issues**

6. The main issues in the appeals are:

- Whether the proposal would preserve a Grade II listed building or its setting, now known as No 31 Prospect Place, and any features of special architectural or historic interest which it possesses (both appeals);
- The effects of the proposal on the character and appearance of the surrounding area (Appeal A); and
- The effects of the proposal on the living conditions of the occupiers of No 32 Prospect Place with particular reference to outlook and natural light (Appeal A).

## **Reasons**

*Listed building (Both appeals)*

### Special interest and significance

7. No 31 Prospect Place (No 31) dates from the eighteenth century when it was built as a chapel. More recently it was used as an office prior to its conversion as a residential property. It is a modest single storey rendered building with a hipped and sprocketed tile roof. It has distinctive round-arched windows, and its front elevation has a pleasing balanced appearance with two windows either side of a central door.
8. In so far as it is relevant to these appeals, the special interest and significance of the listed building is largely derived from its historic and architectural interests. Its historical interest resides in its past uses as a place of worship. Initially it was used as the Bugby Chapel, which was the first non-conformist Chapel in Epsom and then followed subsequent changes in congregation, including by the local Jewish community.
9. Its architectural interests are derived from its simple single cell plan form, materials and fenestration within which its balanced uniformity are defining original characteristics. This uniformity is reflected in its three-dimensional shape, roof form and fenestration pattern.
10. Historically there was an extension to the appeal premises and prior to that an attached building known as Rose Cottage. The precise timeline that the cottage and chapel were erected is not fully clear, but the evidence does indicate that they were erected at a similar time but of a markedly different design. Having been historically largely concealed I accept that the western side elevation contributes less to the significance of the building than the historically open front, rear and eastern side elevations.

11. Although the front, rear and eastern side elevations have a greater hierarchical importance, the building is now experienced with all four sides visible to varying degrees from the public realm. Such views, although much altered from when the building was constructed, are part of the experience of understanding and appreciating its three-dimensional shape and uniformity and the contribution that these elements make to the significance of the listed building.
12. Therefore, the open views form part of the setting of this building and make a positive contribution to its significance. This setting also includes the relationship with the street layout and surviving listed buildings of the late eighteenth century suburb.

Appeal proposal and effects

13. The proposal would introduce an extension which would overtly alter the simple single cell layout, eroding the pleasing uniformity of the building.
14. I accept that historically there was built form attached to No 31. However, the wider street scene has been significantly altered through the more recent retirement housing development, including the neighbouring bungalow (No 32) and its car port.
15. Moreover, the proposal would be designed with matching materials and with windows designed to reflect the historical ecclesiastical nature of the listed building. As such, it would be seen in the street scene as forming part of the listed building. The proposal would alter the character of the building's principle single cell layout and would erode its distinctive uniformity causing harm to its special interest and significance. In this regard, I do not consider that there would be benefits in conservation terms, from replacing the front boundary fence and reinstating a pattern of continuous built form, given the harm I have identified from that subsequent built form. Accordingly, the form and nature of the proposed extension would not, in my view, contribute to the building's evidential value.
16. During the hearing the appellant accepted that the alterations proposed to the existing U-pVC pipework did not amount to a benefit as the existing pipework did not accord with the approved scheme for the conversion of the building to a residential property.
17. Moreover, I have also had regard to the proposed repairs to a broken section of the boundary wall along the historical burial ground adjacent to the site. However, from my observations on site and the evidence before me, the cracked section of walling is not attached to the building and lies beyond the red line and outside of the appellant's control. Moreover, I have no substantive evidence that any repairs to the wall are dependent on the scheme before me, given the nature and location of the crack and separate ownership.
18. The appellant has also made enquiries about taking ownership of the burial ground. However, such enquiries are private matters, the outcome uncertain and beyond the scope of the appeal system, and there is no substantive evidence that a change in ownership would give rise to heritage benefits. As such, whilst I recognise the appellant's willingness on these matters, I do not consider that they amount to benefits in the scheme before me.

19. I am aware of the conscious high quality design intent for the proposal and note the willingness of the appellant to accept the suggested conditions. Nonetheless, these would not sufficiently mitigate the harm.
20. Although the extension would be physically subordinate to the host building, it would be highly prominent from the front in the street scene and would negatively change how No 31 is experienced. In doing so, it would undermine the special interest and significance of the listed building. Moreover, for these reasons its prominence from the footpath to the front would also weaken the contribution that the open setting makes to its significance, albeit to a modest degree as the historically open aspects of the building would be preserved.
21. Overall, the proposal would fail to preserve the special interest of the Grade II listed building, now known as No 31 Prospect Place, and its setting. As a result, the expectations of the Act have not been met and the proposal would harm the significance of this designated heritage asset.

#### Public benefits

22. Paragraph 205 of the National Planning Policy Framework (the Framework) (2023) advises that great weight be given to the conservation of designated heritage assets (and the more important the asset, the greater the weight should be). Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
23. With reference to paragraphs 207 and 208 of the Framework, in finding harm to the significance of a designated heritage asset, the magnitude of that harm should be assessed. Although, for the purposes of undertaking the heritage balance, the Framework does not require the decision maker to place the harm on a spectrum, I acknowledge that within each category of harm, the extent of the harm may vary.
24. In this instance, as several aspects of the building's special interest would be preserved and given the modest scale and the location of the proposed extension, the harm is less than substantial and at the lower end of the spectrum, but nevertheless of great weight. Under such circumstances, paragraph 208 advises that this harm should be weighed against the public benefits of the proposal. This includes securing the asset's optimum viable use.
25. As set out in the preceding section I have not found any heritage benefits from the proposed scheme. There would be some economic and social benefits resulting from the construction works, the general investment into the property and improvements to the local housing stock. However, the proposal would principally be of private benefit to any occupier of the property in providing additional space and an improved standard of accommodation. As such, the associated public benefits carry limited weight in favour of the appeals.
26. The continued viable use of the appeal property as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence.
27. Overall, the weight that I ascribe to the public benefits that would accrue from the proposal, is not sufficient to outweigh the great weight that I attach to the harm I have found. As such, the proposal would not comply with paragraph 208 of the Framework. Accordingly, the proposal would be contrary to the

requirements of both the Act and the Framework in so far as they relate to this main issue. It would also be contrary to the requirements of Policies CS1 and CS5 of the Council's Core Strategy (CS) (2007) and Policy DM8 of the Development Management Policies Document (DMPD) (2015), when taken together and in so far as they relate to this main issue. These say, amongst other things, that the Council will protect and seek to enhance the Borough's heritage assets including historic buildings, conservation areas, archaeological remains, ancient monuments, parks and gardens of historic interest, and other areas of special character.

*Character and appearance (Appeal A)*

28. The listed building's special interest and significance, in so far as it relates to its external form and appearance, makes a positive contribution to the character and appearance of the local area where it is a highly prominent building from the footpath to the rear and front.
29. Accordingly, given my findings in relation to the listed building and its external form and appearance, it follows that the proposal would harm the character and appearance of the surrounding area. The extent of harm would be localised but there would nonetheless be harm.
30. I therefore find that the proposal would harm the character and appearance of the surrounding area. As such, I find conflict with the requirements of Policies DM8, DM9 and DM10 of the DMPD, the objectives of the Council's Householder Supplementary Planning Guidance (SPG) (2004) and the provisions of the Framework, when taken together and in so far as they relate to this main issue. These say, amongst other things that, development proposals will be required to incorporate principles of good design. The most essential elements identified as contributing to the character and local distinctiveness of a street or area which should be respected, maintained or enhanced include, but are not limited, to amongst other things, scale, layout, height, form (including roof forms), massing.
31. In reaching this conclusion I have had regard to the general points G4 and G7 of the SPG. However, it will be seen from my reasoning that my concerns are not the specific conflict with individual standards, such as point 1.2 or 1.6, but the design, form, and appearance of the extension in relation to this particular building.

*Living conditions (Appeal A)*

32. No 32 is a detached bungalow with its front elevation facing away from the appeal property. On its rear elevation are two windows, one serving the kitchen area, and to a lesser extent the living area, and one serving a bathroom. Neither window faces directly toward the location of the extension. During the hearing the Council did not dispute the appellant's evidence in the appeal statement in relation to the Building Research Establishment Handbook 'Site Layout Planning for Daylight & Sunlight: A Guide to Good Practice 3rd edition (2022)' and I have no reason to disagree. Moreover, whilst I have been referred to the so called 25% and 50% rules, I have no substantive evidence that the scheme would breach any such rule.
33. Based on the evidence before me and my observations on site, due to the angle of the view from the windows toward the extension, the distance at over

4m, and the modest height of the proposed extension at less than 3m in height, I am satisfied that there would not be an unacceptable degree of harm to outlook or natural light. I have reached this conclusion even if the existing windows, which are obscure glazed, were altered to clear glazing and with or without the presence of the existing fence on the boundary, which has been the subject to separate applications.

34. I therefore find that the proposal would not have an unacceptably harmful effect on the living conditions of the occupiers of No 32 with particular reference to outlook and natural light. As such, I find no conflict with the requirements of Policy DM10 of the DMPD, which says that development proposals should also, amongst other things, have regard to the amenities of occupants and neighbours, including in terms of privacy, outlook, sunlight/daylight, and noise and disturbance.

### **Other Matters**

35. Private legal matters and disputes between the neighbouring occupiers do not alter the planning merits of the proposal and I have considered the scheme on its own merits.
36. I have been referred to the applications for the conversion of the appeal premises to its residential use and the Council's assessment within its Officer Report. Whilst I have had regard to the planning history, including the Council's assessment at that time, I have reached my own conclusions on the significance and special interest of the listed building and the appeal proposal having regard to all the evidence before me.

### **Conclusion**

37. **Appeal A:** For the reasons given above, the proposal would conflict with the development plan when taken as a whole and I find there to be no material considerations, that would indicate that the appeal decision should be taken other than in accordance with it.
38. Therefore, for the reasons given, I conclude that Appeal A should be dismissed.
39. **Appeal B:** For the reasons given, I conclude that Appeal B should be dismissed.

*Mr R Walker*

INSPECTOR

APPEARANCES:

FOR THE APPELLANT:

|                      |                            |
|----------------------|----------------------------|
| Susan Stevens        | Appellant                  |
| Thomas Darwall-Smith | Keystone Planning          |
| Charles Wagner       | Built Heritage Consultancy |

FOR THE LOCAL PLANNING AUTHORITY:

|              |                                 |
|--------------|---------------------------------|
| Ade Balogun  | Epsom and Ewell Borough Council |
| Justine Page | Epsom and Ewell Borough Council |

INTERESTED PARTIES:

|                  |                |
|------------------|----------------|
| Barbara Akehurst | Local Resident |
| Lee Akehurst     | Local Resident |

DOCUMENTS:

- Statement of Common Ground
- Images of Rose Cottage and No 31
- Extracts of the National Planning Policy Guidance
- Heritage Statement (December 2023) by Built Heritage Consultancy
- Heritage Statement of Case (May 2024) by Built Heritage Consultancy
- Historic England Advice Note 12 – Statements of Heritage Significance in Heritage Assets