



Appeal Decision

Site visit made on 10 December 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Appeal Ref: APP/K3605/D/24/3343509

Bornholm, 12 Albany Close, Esher, Surrey, KT10 9JR

- 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 Mr C Webster against the decision of Elmbridge Borough Council.
- The application ref is 2023/2134.
- The development proposed is a detached double garage with room in the roof space.

Decision

1. The appeal is allowed, and planning permission is granted for a detached double garage with rooms in the roof space at Bornholm, 12 Albany Close, Esher, KT10 9JR in accordance with the terms of the application, Ref 2023/2134, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos: 0476_PL07 001, 0476_PL07 002, 0476_PL07 003, 0671_PL07 105, 0671_PL07 205, 0671_PL07 305, 0671_PL07 405, 0476_PL07 401 and 0476_PL07 501.
 - 3) The development hereby permitted shall not be commenced until all tree protection measures have been installed in the positions identified in Appendix A of the Quaife Woodlands Arboricultural Survey AR/3613-tp/jq. The tree protection measures detailed must be maintained during the construction of the garage.
 - 4) The external materials of the garage hereby permitted shall match those used in the existing dwelling.

Preliminary Matters

2. The appeal site contains a replacement dwelling. The parties are in agreement that the dwelling erected, is smaller than the one denoted in the drawings detailed in the decision notice for planning permission 2017/0591. This is because the Council incorrectly referred to the superseded drawings in the permission. In the interest of clarity, calculating increases in footprint and volume, the parties refer to the replacement dwelling as the one erected rather than the one approved. Accordingly, my calculations will be based on the existing and proposed volumes as agreed between the main parties.
3. The description of development on the application form refers to 'rooms' in the roof space, but the plans before me denote that there would only be one room. As a result,

the description in the banner heading has been amended to accurately reflect the 'room' in the roof space.

Main Issues

4. The appeal site is within the Green Belt, so the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Inappropriate development

5. Paragraph 154 of the Framework sets out exceptions whereby development is not inappropriate in the Green Belt. One of these exceptions is the extension or alteration of a building, provided it does not result in disproportionate additions over and above the size of the original building.
6. Policy DM18 of Elmbridge's Development Management Plan 2015 (EDMP) aligns with the Framework and advises that 'extensions to a building will be permitted provided they do not result in disproportionate additions over and above the size of the original building'. The policy stipulates that support will be given to proposals that do not have a materially greater impact on the openness of the Green Belt and, in particular, do not result in an increase beyond 25% in volume and 25% in footprint. Additionally, the policy specifies that proposals to erect an ancillary building within five metres of the main building will be treated as an extension to the main property.
7. The policy wording in DM18 does not define 'original building' nor does it make clear whether 'a building' and 'the original building' should be treated as different things. I have interpreted the terms to be one and the same, taking the building on site as the starting point. Insofar as the supporting text at 2.79 advises that '*the original building will be determined based on its size as existing on 1 July 1948 or as first built if later than this date*', the Council appears to have interpreted this meaning the building present on the 1 July 1948 or the first building built after this. However, the term 'first building;' is not used. In the current case, the replacement dwelling was 'first built' after 1948. It therefore logically satisfies the latter element of the definition. This is irrespective of the previous dwelling on site, as neither the policy nor supporting text precludes replacement dwellings from the definition of 'original' building.
8. The replacement dwelling has a footprint of 199.8m² and a volume of 1085m³ and the proposal has a footprint of 49.9m² and a volume of 242m³. Accordingly, the percentage increase in the footprint of the dwelling would be 24.97% and the increase in volume would be 22.3%. Both figures fall below the 25% threshold stipulated in Policy DM18 and as a result the proposal is neither a disproportionate extension nor inappropriate development.
9. The Council's calculation of increased volume is detailed as 34.5%. This calculation is based on dividing the cumulative increase in volume by the volume of the demolished building, minus extensions to get a percentage increase figure. However, given that the replacement dwelling, satisfies the definition of original dwelling, there is no need to consider the demolished building in calculating percentage increase.

10. Interested parties make reference to the scheme being assessed under part b) of policy DM18 of the EDMP. This refers to replacement buildings and allows those that do not result in more than a 10% increase in volume and footprint. This part of the policy is not relevant to the appeal scheme as it does not propose a replacement building. In accordance with Policy DM18 the proposed garage would be considered as an ancillary building within five metres of the main dwelling and as such it should be treated as an extension.
11. For the reasons given above, I conclude that the proposal would not result in a disproportionate addition to the original dwelling. Therefore, it would not be inappropriate development in the Green Belt and it would be compliant with Policy DM18 of the EDMP insofar as this requires extensions to be proportionate to the original building.

Character and appearance

12. The appeal site contains a large, detached dwelling in a spacious plot on a private residential estate. The property is set behind a high hedge and electronic slatted gates. The perimeter of the site is screened by trees and a tall hedge. The properties on the estate are similarly large in spacious plots, many have detached garages and dwellings are set back within the plots with views of the properties largely screened by hedgerows, vegetation and boundary treatments.
13. Despite being large and positioned in front of the building line of the dwelling, the plot size and subservient scale of the garage compared to the dwelling, would prevent it from appearing overly dominant or incongruous in the immediate area. Due to vegetative screening and the position and orientation of the proposed garage, views of the proposal from the street scene would be very limited. This is because the hedge and gate would obscure most of the building and only a small section would be viewable above the hedge. Additionally, the design of the garage would complement the modern design of the main dwelling thereby respecting the character and design of the host property.
14. For the reasons above, I conclude that the proposal would not unacceptably affect the character and appearance of the area. It would therefore be compliant with Policy CS17 of Elmbridge's Core strategy 2011 and Policy DM2 of the EDMP. These policies amongst other things seek to achieve high quality design that preserves or enhances an area and integrates sensitively into the local townscape.

Other Matters

15. The closest boundary to the proposal would be with 11 Albany Close. The garage would be orientated so that at its closest point to the neighbouring dwelling, the garage would be positioned just over 4m from the boundary. This combined with the tall hedge between plots and separation distance between the proposal and neighbouring property, would mean that the visible element of the garage would neither be overbearing nor imposing from 11 Albany Close.
16. Due to the pitched roof of the proposed garage, only a small section of roof would stand above the existing hedge. As a result, the proposal would not unacceptably obstruct light to 11 Albany Close.
17. Part of the roof of the proposed garage will be covered in solar panels. There is no statutory requirement for the appellant to provide a glint and glare assessment. Whilst

there may be some potential for sunlight to reflect from the panels, it has not been demonstrated with sufficient evidence that if this did occur that it would be harmful to neighbouring occupiers.

18. Given that the garage would be erected behind the retaining wall adjacent to the boundary with 11 Albany Close, the erection of the garage would not negatively impact the hedge.
19. Any disturbance during construction would be for a temporary period and an ancillary use would not negatively affect the peace and tranquillity of the area. This is because the intended use would be connected to activity within the main dwelling, comings and goings would be likely limited and typical within this residential area.
20. Reference is made to the scheme being the same as a previously refused application. Whilst I am aware of this refusal, this scheme is considered on its current merits and the evidence and policies before me.

Conditions

21. In addition to the standard time condition, it is necessary for a condition to list the approved plans in the interest of certainty.
22. A condition is required to control the external finish of the development, to ensure high quality design and to preserve the character and appearance of the area.
23. The Council has suggested a pre commencement planning condition to secure the mitigation set out in the appellant's arboricultural statement. I have sought and obtained the written consent of the appellant for the pre-commencement condition which I have imposed. A pre commencement condition is necessary to safeguard the root protection areas of trees that contribute to the established verdant character and appearance of the area prior to ground works commencing.
24. A further condition was suggested by the Council to restrict the use of the outbuilding. This condition is not necessary as there is no separate dwelling before me. If there is a future material change of use to create a separate dwelling, then planning permission would be required.
25. Conditions preventing an increase in net lighting and restricting vegetation clearance are not considered reasonable. This is because the proposed development is not positioned in a location where vegetation would need to be removed and restricting external lighting on the garage would not be effective when lighting could be installed elsewhere within the site.
26. Given that the application was submitted before mandatory Biodiversity Net Gain was required, there would be no requirement to require biodiversity enhancement.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

V Goldberg

INSPECTOR