



Appeal Decision

Site visit made on 14 January 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 January 2025

Appeal Ref: APP/P3610/D/24/3347244

46 Horton Crescent, Epsom, Surrey KT19 8AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Osman Nasir against the decision of Epsom and Ewell Borough Council.
 - The application Ref 24/00301/REM, dated 18 March 2024, was refused by notice dated 13 May 2024.
 - The application sought planning permission for a single storey rear infill extension and conversion of garage incorporating habitable accommodation and alterations to fenestration without complying with a condition attached to planning permission Ref 23/00129/FLH, dated 23 March 2023.
 - The condition in dispute is No 2 which states that: the development hereby permitted shall be carried out in accordance with the following approved plans: 1) Site Location Plan (1:1250) 2) Proposed Site Plan; Drawing No. P-101 3) Proposed Floor Plans and Elevations; Drawing No. P-201 - All received on 06.02.2023.
 - The reason given for the condition is: for the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024, which I have had regard to as a material consideration in my decision making. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by this.

Background and Main Issue

3. The development has not been constructed in accordance with the plans approved under the original permission¹. The ground floor front facing window, which replaced the previous garage door, differs from that shown on the approved plans in its design and sill height. The appeal seeks to vary condition 2 so that the plan listed reflects the fenestration as constructed.
4. Accordingly, the main issue is the effect of varying the condition on the character and appearance of the property and of the surrounding area.

¹ LPA Ref 23/00129/FLH.

Reasons

5. The appeal dwelling is a three-storey mid-terrace townhouse. The terrace comprises front projecting gables with bay windows above ground floor on each end and the properties in the middle have Juliet balconies. The other fenestration within the terrace is all in proportion, being taller than wide, which matches the verticality of the building overall. The building has integral garages and is set behind an open frontage which accommodates parking spaces and planters.
6. The site forms part of a wider residential development at the former Epsom Hospital Cluster and the surrounding properties comprise two storey dwellings as well as blocks of flats. Although there is some variation in terms of elevational treatment, the façades are generally well articulated in terms of window position and design.
7. The ground floor window installed on the front elevation is substantially wide and has a raised sill, thereby failing to respect the proportions of the existing windows which have a strong vertical emphasis. While the window seeks to replicate the pattern of the existing garage doors, its design and appearance are markedly different from the existing fenestration on the host building and wider terrace. As such, the window is an incongruous addition to the front façade that does not relate well to the proportions and appearance of the existing fenestration, thereby detracting from the overall appearance of the host building and wider terrace.
8. Although there is some variation in the colour of garage doors and window design across the wider estate, overall the front elevations of such properties are broadly consistent in terms of the proportions and form of the windows as I observed in my site visit. The appeal window is apparent from public vantage points, and due to its proportions and appearance, it is at odds with the rhythm and consistency of fenestration of its host, thereby harming the character of the surrounding area.
9. While the appellant asserts that the window is obscured by parked cars, there is no guarantee that a car will always be parked within the property's frontage. Indeed, in my site visit I observed that there were no cars parked on site. Further, the Framework seeks to achieve well-designed places, even if the building is not a listed building nor is within a conservation area. As such, I do not find that these matters justify a window that detracts from the proportions of fenestration on the host building.
10. My attention is drawn to the garage conversions at 1 Horton Crescent and 25 Horton Crescent. However, in both cases, the layout of the panes on these windows has a vertical emphasis, similar to the windows on their host properties. As such, I do not find that these examples justify the development.
11. As such, varying the condition has a harmful effect on the character and appearance of the host property and of the surrounding area, contrary to Policy CS5 of the Core Strategy 2007 and Policies DM9 and DM10 of the Development Management Policies Document 2015. These policies support development which makes a positive contribution to the Borough's visual character, reinforce local distinctiveness and incorporate principles of good design including window format, amongst other things.

Conclusion

12. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR