



Appeal Decision

Hearing held on 21 November 2023

Site visit made on 21 November 2023

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/P3610/W/23/3324830

31-37 East Street, Epsom, Surrey KT17 1BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by .Big Yellow Self Storage Company Limited against Epsom and Ewell Borough Council.
 - The application Ref 22/01518/FUL, is dated 17 October 2022.
 - The development proposed is demolition of the existing building and the construction of a self-storage facility (Use Class B8) and flexible office space (Use Class E(g)(i)), together with vehicle parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing building and the construction of a self-storage facility (Use Class B8) and flexible office space (Use Class E(g)(i)), together with vehicle parking and landscaping, at 31-37 East Street, Epsom, KT17 1BD in accordance with the terms of the application, Ref 22/01518/FUL, dated 17 October 2022, and subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The Council failed to determine the application within the required timeframe. It has however provided a committee report and draft reasons for refusal, which I have taken into account in defining the main issues.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area including protected trees;
 - whether the development would prejudice the delivery of future development on adjacent sites;
 - the effect of the development on the living conditions of occupants of Crossways House in relation to light; and
 - whether the development would make adequate provision for parking.

Reasons

Character and appearance

4. The site occupies a long rectangular plot aligned roughly perpendicular to East Street. A relatively modern commercial building occupies the street facing part

of the plot, with a large surface car park located to the rear. The latter is served by an access which runs along the southwest side of the plot.

5. The immediate setting within East Street is predominantly characterised by large flat roofed rectilinear buildings of post-war and more recent date. Heights range between 2 and 6 storeys, and a bulky 5/6-storey multi-storey car park occupies land to the rear of the plot.
6. The proposed building would be similarly rectilinear and flat roofed in form. As it would mostly stand at 5-storeys in height, and occupy the majority of the plot, its overall mass would be considerable. In terms of both height and mass it would contrast with buildings toward the southwest. The height of the proposed building would however fall within the existing range and would be less than that of neighbouring buildings to the northeast. It would furthermore be viewed directly against the existing bulk of the multi-storey car park towards the rear. When also taking other large buildings within the broader streetscene into account, the height, massing, and overall scale of the proposed building would not appear incongruous.
7. The majority of the building would be occupied by the storage facility which would be windowless. The northwest elevation, and the majority of the southwest and northeast elevations of the building would therefore be blank. Though this is also true of the northeast and southwest elevations of the existing building, these have a much smaller surface area. The northwest elevation of the proposed building would nonetheless face the multi-storey car park, and the northeast elevation would largely face the adjacent gas works site and the private car park to the rear of Crossways House. All 3 elevations would otherwise be broken up with alternating panels of brickwork and profiled metal cladding, and the more visually prominent southwest elevation would be additionally screened with hanging plants. Again, to the extent that the building would be visible from public spaces it would not appear incongruous.
8. An active frontage would be provided on East Street where there is currently none, and there would be an improved alignment with adjacent frontages. The palette of materials and use of glazing on the frontage would broadly reflect the styling of other modern developments nearby. In these regards the development would bring some enhancement to the streetscene.
9. An ash and sycamore protected by a Tree Preservation Order stand immediately in front of the existing building on East Street. The branches of both press against the front wall, and the ground beneath is paved and used for parking. Current growing conditions are thus far from ideal.
10. The proposed building would be set back further than the existing building, therefore providing more space for canopy development. The area beneath the trees would be landscaped, and ground conditions would be improved. This would not deliver the optimal level of improvement sought by the Council, which would require a further, potentially incongruous set back of the building frontage. Growing conditions would nevertheless see significant enhancement. Set against the existing baseline, the development would indeed facilitate rather than prevent future crown growth, would allow for an increase in the stature of the trees rather than a reduction, and would benefit their wellbeing. Any linked environmental benefits would be likewise enhanced.

11. The Council has additionally raised concern in relation to an overhanging sycamore located off site. The tree in question is not subject to any form of protection and could be cut back to the boundary at any time. The development would otherwise again provide an improved growing environment.
12. Outdoor parts of the site are currently hard surfaced, and apart from the trees at the frontage, weeds provide the only other source of greenery. In contrast, the appeal scheme would see a relatively deep band of planting established at the frontage, and a long band of planting introduced along the southwest side of the proposed building. As noted above, climbing plants would also be provided on the southwest elevation. This would represent a both meaningful and significant greening of the site, and that at the frontage would positively complement other landscaping along East Street.
13. Doubt has been raised over the extent to which the proposed landscaping would be achievable due to underground services. This would obviously be a constraint no matter what proportion of the site was landscaped. Based on the information provided, I am satisfied that the appellant has taken these constraints into account within the proposed specification.
14. For the reasons set out above I conclude that the effect of the development on the character and appearance of the area, including protected trees, would be acceptable. It would therefore comply with Policy CS1 of the Core Strategy 2007 (the CS) and Policy DM9 of the Development Management Policies Document 2015 (the DMP) which similarly seek enhancement of the townscape/built environment through new development; Policy DM10 of the DMP insofar as this sets out design principles relating to local character; and Policy DM5 of the DMP which amongst other things seeks to protect and enhance the Borough's trees. Whilst Policy CS5 of the CS was also cited by the Council, this policy relates to the protection of heritage assets, no harm to which has been identified by either party.

Future development

15. The Council's draft reasons for refusal do not include an objection on grounds of the scheme's potential to impact on future development. The concern is however identified within the committee report and has been elaborated upon at appeal.
16. The site currently forms part of 'The Utilities Site', an area identified for mixed use development under Policy E15 of Plan E: Epsom Town Centre Area Action Plan 2011 (the AAP). This includes land to the southwest of the site and the gasworks site to the northeast. The AAP envisaged comprehensive redevelopment, but the Utilities Site remains in separate ownerships and part has already been the subject of separate redevelopment for housing. Though the AAP sets out a vision and a set of targets, there is no accompanying development brief or master plan against which to assess the scheme.
17. As the proposed development would meet the employment floorspace target set out within Policy E15, it would help to deliver the aspiration set out for the Utilities Site. Moreover, given that this would be achieved within a relatively small part of the overall site, ample space would be left upon which to deliver further housing.

18. The appellant has sought to demonstrate that the proposed building would not impede the provision of high-density housing on the adjacent gasworks site. The owner of the latter has also indicated that a development is being designed which takes the appeal scheme into account. The scheme would clearly constrain the range of design options available on the gasworks site. But so too would other adjacent buildings and features, including the multi storey car park, Rainbow Leisure Centre, and railway. In this regard I have been given no clear reason to believe that the appeal scheme would unacceptably prejudice the delivery of future development.
19. The Council is currently at an early stage in formulating a new Local Plan, having yet to consult on a submission draft. Draft Policy SA1 of the emerging Local Plan seeks to carry forward The Utilities Site in a modified and renamed form. The draft Epsom Town Centre Masterplan provides further detail, and notwithstanding the map attached to draft Policy SA1, it sets out 3 different boundary options for consultation. Whilst these indicate the possible inclusion of the multi storey car park within the future allocation, they also indicate the possible exclusion of the appeal site. The Council confirmed that these options took the possibility of the appeal being allowed into account.
20. Given the early stage in the plan making process I can attach little weight to the Council's assertion of prematurity. Though I appreciate that the Council is seeking to formulate a new and more detailed vision for the area within which the appeal site is located, this clearly remains to be fixed and finalised. The aspiration for comprehensive redevelopment is itself not new, and given past lack of delivery, appears to hold limited credibility. My findings above otherwise indicate that the development would not prevent adjacent sites from being brought forward. Even if the development did cause certain options within the draft Master Plan to be ruled out, it remains the case that the appeal scheme would comply with the existing adopted development plan.
21. For the reasons outlined above I conclude that the development would not prejudice the delivery of future development on adjacent sites. It would therefore comply with Policy E15 of the AAP, and Policy DM10 of the DMP insofar as this requires that development proposals must not prejudice the development potential of adjacent plots.

Living conditions

22. Crossways House, which is located immediately to the northeast of the appeal site, provides student accommodation. Its frontage is recessed, providing rooms with windows which face directly towards the side wall and across the roof of the existing building on site, and rooms with forward facing windows set deep to the rear of the street frontage. This inevitably means that some rooms have a limited outlook and reduced levels of natural lighting.
23. The appeal scheme would provide improved spacing at the frontage in relation to Crossways House. Given that it would however be of greater height than the existing building, there would be some additional impact on light reaching rooms in Crossways House.
24. The Council has identified 3 windows of concern in relation to reduced daylight, and 2 windows in relation to reduced sunlight. These serve 4 different rooms. The Council's concern is based on the fact that a threshold would be reached at

which change would be noticeable when assessed against BRE guidance. A noticeable change need not however be considered unacceptable.

25. It was notable that during my daytime visit a large proportion, if not most of the rooms within the affected part of Crossways House had curtains closed. Even assuming that this was not a normal occurrence, the extent to which occupants of the rooms in question would notice change in practice is debateable. This is given the relatively short duration of occupancy by students and vacation-time visitors. In any case, the detailed diagrams provided by the appellant show that change would chiefly affect the parts of the rooms furthest from the window, whilst areas adjacent to the windows would remain reasonably well lit. This is of relevance insofar as the accommodation provides study bedrooms where desks are generally located adjacent to the windows. The development should not therefore adversely affect the potential for occupants of the affected rooms to make use of natural light to work during the day.
26. Interested parties have raised additional concerns in relation to outlook, privacy and noise. The relationship that would exist between Crossways House and the proposed building would however be generally similar to that which exists between it and Bradford House at the opposite end of the front elevation. Given that the side elevation of the proposed building would only feature windows towards the very front, and given the increased gap between the buildings, the privacy of occupants of Crossways House would not be adversely affected. Whilst some disturbance during the demolition and construction phases of the development would be unavoidable, this can be subject of reasonable control by condition, as can noise that would be generated by plant during the occupation phase.
27. For the reasons set out above I conclude that the development would not have an unacceptable effect on the living conditions of occupants of Crossways House in relation to light. It would therefore comply with Policy DM10 of the DMP insofar as this requires development proposals to have regard to the amenities of neighbours.

Parking

28. The appellant has carried out an accumulation study which indicates that 12 parking spaces at most would be required to service the proposed development. Though scope to park 13-14 vehicles on site was also identified, this figure was revised down to 13 at the Hearing. Nine vehicles would be accommodated within marked spaces, and up to 4 within the loading bay in front of the main doors of the storage facility. An annotated plan submitted at appeal demonstrates that this space could accommodate vans as well as cars. A similar arrangement is apparently used at other facilities forming part of the chain. Sufficient parking space would therefore be provided on site to service the proposed development.
29. Space within the loading bay would not be marked out. The most efficient use of such space for parking would clearly rely upon its users parking sensibly. This cannot be guaranteed. Sufficient space would nonetheless be available for at least 3 vehicles to comfortably park side by side within the loading bay, thus still meeting the requirement.

30. The Council's objection to the scheme on the basis that 14 parking spaces are required derives from simple misinterpretation of the appellant's evidence. Even in the event that parking overspilled, the identified adverse effects on the streetscene and the availability of on-street parking would not arise given that no on-street parking is available within the immediate vicinity.
31. For the reasons outlined above I conclude that the development would make adequate provision for parking. It would therefore comply with Policy DM37 of the DMP insofar as this requires it to be demonstrated that an appropriate level of parking will be provided.

Other Matters

32. Interested parties have raised a number of additional concerns which are not shared by the Council. These include traffic, congestion and the loss of retail provision. As it has been demonstrated that the development would provide a reduction in traffic related to use of the site, and that it would provide a beneficial employment use, I see no reason to take a different view.

Conditions

33. Conditions (1) and (2) are standard conditions setting out the time period for commencement and identifying the approved plans for sake of certainty.
34. Condition (3) secures the provision of a finalised construction environmental management plan, preliminary details relating to which have been previously submitted. As this is comprehensive in its coverage, including such matters as hours of work, site organisation, construction noise and traffic management, there is no need for the detailed condition proposed, or separate conditions relating to these matters. The condition is required to safeguard neighbour amenity and to avoid adverse effects on the environment and highways.
35. Condition (4) secures the provision of a finalised scheme addressing the potential for on-site contamination and its remediation. Given that a preliminary risk assessment and investigative work within open parts of the site has already been undertaken, there is no need for this work to be duplicated. The condition is however required to ensure full site coverage, and the provision of finalised methodologies. Condition (5) is required to address the potential for unexpected contamination.
36. Condition (6) requires details of piling to be submitted and approved in order to ensure no adverse effect on groundwater.
37. Condition (7) secures implementation of ecological mitigation and enhancement measures in the interests of safeguarding and promoting biodiversity.
38. Condition (8) secures implementation of measures set out within the submitted arboricultural impact assessment which includes a method statement and a tree protection plan. Given the detail that these contain there is again no need for suggested conditions which require much the same information. The condition will safeguard trees on and adjacent to the site.
39. Condition (9) secures implementation and subsequent management of the proposed scheme of site drainage. As the Lead Local Flood Authority has confirmed that the scheme meets its requirements there is once again no need for the more detailed condition requested. There is also no need for the

condition restricting infiltration drainage requested by the Environment Agency, as this method has otherwise been identified as unsuitable for the site.

40. Condition (10) secures specific details of external materials in order to help secure a high-quality finish and contribution to the surrounding setting.
41. Condition (11) secures implementation of the proposed landscaping scheme and its management in accordance with the submitted plan.
42. Condition (12) secures the provision of a cycle store on site to encourage the use of sustainable modes of transport.
43. Condition (13) secures provision of parking/loading and turning space together with electric charging points, the specification of which exceeds that set out within the Building Regulations. This is in order to ensure that the development can be properly serviced without any adverse effect on the surrounding highways, and in order to support use of electric vehicles.
44. Condition (14) limits noise emissions from plant helping to safeguard the amenity of occupants of adjacent accommodation.

Conclusion

45. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

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: 2303-X01-A; 2303-P01; 2303-P02; 2303-P03; 2303-P04; 2303-P05; 2303-P06; 2303-P07; 2303-P08; 2303-P09; L001 P02; L002 P01; 21-0162_L003 P01.
- 3) The development hereby permitted shall not commence until a finalised version of the Construction and Environmental Management Plan dated 25th August 2022, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved plan.
- 4) No excavation shall take place on site in relation to the development hereby permitted until a finalised scheme addressing risks associated with potential contamination has been submitted to and approved in writing by the Local Planning Authority. The scheme shall comprise:
 - a) a revised risk assessment which has identified all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources; pathways and receptors; and potentially unacceptable risks arising from contamination at the site.

- b) a site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c) the results of the site investigation and detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how and when they are to be undertaken.
- d) a verification plan providing details of the data that will be collected and submitted to the Local Planning Authority in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall then be implemented as approved.

- 5) Any not previously identified contamination found during the implementation of the development hereby permitted shall be immediately reported to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment shall be carried out, submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall also be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall then be carried out before the development is resumed or continued.
- 6) Piling and other penetrative methods shall only be used in construction of the development hereby permitted if details have first been submitted to and approved in writing by the Local Planning Authority. These details shall demonstrate that there would be no unacceptable risk to groundwater.
- 7) The development hereby permitted shall be carried out in accordance with the ecological mitigation and enhancement measures set out in Section 5 of the Preliminary Ecological Appraisal dated August 2022.
- 8) The development hereby permitted shall be carried out in accordance with the BS 5837 Arboricultural Report: Impact Assessment and Method Statement dated 16th August 2022, and the Tree Protection Plan that this contains.
- 9) Insofar as it relates to drainage of the site, the development hereby permitted shall be carried out and shall thereafter be managed in accordance with the submitted Flood Risk Assessment and Drainage Strategy Revision P4 dated September 2022.
- 10) Construction of the building hereby permitted shall not commence above slab level until a specification with samples of all external facing and roofing materials to be used have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved specification.
- 11) The development hereby permitted shall be carried out in accordance with the landscaping scheme detailed on the approved plans and shall thereafter be managed in accordance with the submitted management plan reference: 21-0162_L004 P01.
- 12) The development hereby permitted shall not be brought into use until a secure, lit cycle store has been provided on site in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The cycle store shall be retained thereafter and kept available for the parking of cycles at all times.

- 13) The development hereby permitted shall not be brought into use until the vehicular parking/loading and turning spaces shown on the approved plans have been provided and made available for the parking/loading and turning of vehicles, and 4 of the parking spaces have been provided with fast charge electric vehicle charging points (minimum 7kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply). The charging points, parking/turning and loading spaces shall thereafter be retained and kept operational/available for these purposes at all times.
- 14) The rating level of noise emitted by all fixed plant on the building hereby permitted shall not exceed 52dB at the boundary with any noise sensitive premises between 07:00 and 23:00 and 37dB between 23:00 and 07:00. The measurement and assessment shall be made according to BS 4142:2014+A1.

APPEARANCES

For the Appellant

Andrew Deller	DWD Property and Planning Ltd
Liam Dunford	Point 2 Surveyors
Chris Elliot	Rappor Consultants Ltd
Nick Harman	Rappor Consultants Ltd
Carl Lothian	Crown Tree Consultancy
David Scanlon	Mountford Piggott LLP
Mark Westmoreland Smith	Counsel for the appellant, Francis Taylor Building
Barney Stringer	Quod

For the Council

Emily Hall	WS Planning and Architecture
Gemma Paterson	Principal Planning Officer
Justin Turvey	Head of Place Development
Brian Woods	WS Planning and Architecture

Interested parties

Neil Dallen	District Councillor
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Documents presented at the Hearing

Comparison of wording: adopted Local Plan, draft Town Centre Masterplan

Draft Town Centre Masterplan