
Appeal Decision

Site visit made on 24 January 2017

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 February 2017

Appeal Ref: APP/P3610/W/16/3159597

5 Alexandra Road, Epsom, Surrey KT17 4BH

- 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 Snowbird Homes Limited against the decision of Epsom & Ewell Borough Council.
 - The application Ref 15/01770/FUL, dated 7 March 2016, was refused by the Council by notice dated 16 September 2016.
 - The development proposed is demolition of existing property and redevelopment of the site to provide 9 two- bedroom flats and 1 three bedroom flat in a three-storey block with accommodation in the roof space and formation of a new access onto Alexandra Road with the provision of ancillary car parking.
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Decision

1. I dismiss the appeal.

Main Issues

2. These are;
 - The effect of the development on the character and appearance of the area and on the provision of green infrastructure.
 - The effect of the development on the aims of local and national policy on the supply of affordable housing
 - The effect of the development on the provision of a mix of housing.

Reasons

Policy

3. Core Strategy Policy CS9 sets a target of 35% of new dwellings being affordable, and new housing developments should include a mix of dwelling types, sizes and tenures which help meet identified local housing needs and contribute to the development of mixed and sustainable communities. Residential developments of between five and fourteen dwellings gross (or on sites between 0.15ha and 0.49ha - irrespective of the number of dwellings proposed) should include at least 20% of dwellings as affordable. Policy CS12 concerns the provision of services and community infrastructure.
 4. Development Management Policies Document 2015 Policy DM9 on townscape and character seeks enhancement of townscape through new development and lists matters to be considered, with the aim of granting permission for
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proposals which make a positive contribution to visual character and appearance. These matters are compatibility with local character and the relationship to the existing townscape and wider landscape; the surrounding historic and natural environment; the setting of the proposal site and its connection to its surroundings; and the inclusion of locally distinctive features and use of appropriate materials. The design requirements for new development that are detailed in Policy DM10 include good design and the policy lists matters that contribute to the character and local distinctiveness of a street or area, including scale, layout, height and form, and spaces between buildings and building lines. Policy DM11 on housing density states an in-principle support for proposals for new housing that make the most efficient use of development sites located within the Borough's existing urban area.

5. Proposals for new housing must demonstrate how the density of development would contribute towards maintaining and enhancing the visual character and appearance of the wider townscape and lead to no net loss of biodiversity. Policy DM16 states a presumption against the loss of rear domestic gardens due to the need to maintain local character, amenity space, green infrastructure and biodiversity. Policy DM22 states that in order to meet this objective all residential development proposals for four or more units will be required to comprise a minimum of 25% three bedroom, or more, units. Exceptions to this approach will be considered where it can be demonstrated that such a mix would be inappropriate to the location or endanger the viability of the proposal.
6. The National Planning Policy Framework states at paragraph 56 that the Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Character and Appearance

7. The site is located in the built up area of Epsom and is previously developed land in an accessible location close to the town centre and transport. In principle the Council agree that the proposed development accords with the policies contained within National and local planning policy regarding the intensification of previously developed sites. The present building on the site is a detached building partly used as a consulting room, and has some unremarkable additions to the rear and sides. There is no compelling reason to seek the retention of the building and the redevelopment of the site would be acceptable in principle.
8. The immediate area is mixed in character and appearance, with a three storey block of flats at number 3 at the corner of Alexandra Road and Mill Road, number 1a next along being a two storey conventional house design, followed by the redevelopment of number 3 which was well advanced at the time of the site inspection and for which elevation drawing SP-P-103A has been provided. That drawing shows also the proposed elevation of the appeal site replacement building, together with that of the three storey block of flats next door at number 7. Opposite the site is the now vacant land where number 4 is shown on the site location plan, and a former depot that is surrounded by site hoardings awaiting redevelopment.

9. The buildings just described are for the most part conventionally detailed pitched roof structures, but the new building at number 3 is to be flat roofed with use of brickwork, rendered walls and metallic cladding. This introduction of contemporary proportions and use of materials should now be regarded as a prominent part of the street-scene and one that will appear interesting and attractive.
10. The proposed building on the appeal site would be significantly larger than that which it would replace, but having mind to the development on either side, some enlargement would be acceptable as making better use of land in this location. However, whilst the forward projecting part would be slightly lower than the ridge at number 7, and the eaves lower still, the falling ground level and the proposed forward placement on the plot relative to the angled and set-back position of the neighbouring flats would result in the appearance of greater bulk. When compared with the lower flat-roofed development to the other side, the appeal proposals would appear out of scale and dominating of the finely-detailed new block at number 3, that being set on a lower site level as well.
11. To the rear of the forward projecting part would be a substantial block of three storey development with rooms in the roof in addition. This would result in a higher eaves level and ridge level, and whilst this would be comparable with that at number 7, due to the difference in level, the additional height of built form would appear particularly dominant and intrusive to the view when seen adjacent to the new work at number 3.
12. This higher rear part would extend back into the open space at the rear of the present building and although respecting a 45° line drawn from the neighbouring number 3, would appear over the top of garages on Mill Road as an intrusion of built form into the present open space and would visually disrupt appreciation of the protected tree on the north-east corner of the site. Trees are subject to preservation orders in recognition of the role they play in the character and appearance of the public realm, and the rearward projection of the building at the height and bulk proposed would appear harmful in that respect.
13. In order to control the overall ridge height for what would be a deep and wide plan form, the device of a flat roof hidden behind mansard-style visible slopes would be used. This device would result in a blocky and uncharacteristic bulk of development when seen in the viewpoints referred to; along the front of number 7 from the east, over the roof level of number 3 from the front and the west, and to the rear from Mill Road.
14. With regard to the third reason for refusal, the rearward projection would diminish the visual openness of the area to the rear where it is most apparent from public viewpoints and that together with the space taken by parking and manoeuvring area would severely limit the open green space to smaller areas either side of the block and roadway.
15. The conclusion is that the proposed height, depth and bulk of building, and the use of land to the rear for parking would cause harm to the character and appearance of the area and the perception of open green space, and that the design of the building does not pay sufficient heed to that of nearby structures, of which the new building at number 3 should be regarded as a part. The proposal does not meet the standard of design sought in paragraph 56 of the

Framework and would be contrary to Policies DM9, DM10 and DM16 which seek good design that relates well to its surroundings and retains green space that contributes to the local character.

Affordable Housing

16. As stated previously, Policy CS9 is clear that 20% of the units should be affordable housing, and as this proposal is for 10 units, 2 such affordable units should be provided. The Council refer also to the possibility of a commuted payment being acceptable. However, since the adoption of that policy a Written Ministerial Statement was made on 28 November 2014. Small scale development of 10 units or less and less than 1,000m² should not be subject to contributions to affordable housing, among other things. Whilst subsequently subject to legal action, that Statement is current national planning policy and the requirements were incorporated into the web-based Planning Practice Guidance.
17. Policy CS9 is part of the Development Plan for the area and Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Statement is a material consideration to be weighed in the balance.
18. The Council have supplied information on how this has been dealt with in other areas, whilst the appellant refers to there being numerous appeals where the Statement has been upheld and no affordable housing required. The aim of the Statement was to lower the construction cost of small-scale new build housing and home improvements, and to help increase housing supply. It was further stated to encourage development on smaller brownfield sites and to help diversify the house building sector by providing a much needed boost to small and medium-sized developers.
19. Information has been provided on the affordability of homes in this Council area when compared with others in Surrey including one Authority that has the highest of all. There does not appear to be a compelling reason to set aside this Statement of Government policy, so that in this case with regard to Policy CS9, material considerations indicate a decision otherwise than in accordance with the local policy.

Housing Mix

20. The requirement of Policy DM22 to provide at least 25% of the housing units as three bedroom units, or larger, is not met and the appellant put forward arguments in their appeal Statement which accompanied the Appeal Form on 27 September 2016. The Council had the opportunity to respond to this with their own Appeal Statement but an e-mail from the Inspectorate of 9 January 2017 confirmed to the appellant that *'the Council have not submitted a statement but they did submit a list of conditions with the questionnaire which you also should have received. If you wish to comment on these conditions please submit this with your final comments.'*
21. The Council rely therefore on their Committee Report, but this addresses housing mix only as part of the section on the viability appraisal for affordable housing with an apparently erroneous reference to Policy DM21. The Council's

independent viability appraisal refers only to being compliant, or otherwise, with Policy CS9 on affordable housing and appears to assume as a constant a scheme of ten 2-bedroom flats.

22. Unlike the appraised scheme, the appeal scheme and that which the Council refused, includes a single 3-bedroom flat and to be compliant with Policy DM22 would need to have a second such flat. The appellant has given addresses, reference numbers and accommodation details of 6 schemes granted permission without compliance, two being significantly larger in total provision, at 23 and 32 units. Without a rebuttal or explanation of this matter, the facts appear to be that schemes with no 3-bedroom flats have been acceptable. In addition the appellant's evidence that an additional 3-bedroom unit would not be appropriate remains un-challenged.

Conclusions

23. There need be no requirement for affordable housing and the evidence on the housing mix has not been challenged. However, the design of the roof and the overall width, depth and height lead to a development proposal that causes harm to the street-scene and views along the rear, and to the aims of policy on retaining local character, amenity space, green infrastructure and biodiversity. The visual appreciation of a protected tree would be adversely affected. The proposal fails to accord with Development Plan policies and national policies which seek good design that is appropriate to its surroundings. The benefits of the scheme to the supply of housing do not outweigh these failings. For the reasons given above it is concluded that the appeal should be dismissed.

S J Papworth

INSPECTOR