
Appeal Decision

Site visit made on 9 May 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 9 June 2017

Appeal Ref: APP/P3610/W/16/3165832

Land to the rear of 23A to 33 Links Road, Epsom, Surrey, KT17 3PP.

- 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 Latchmere Properties Ltd. against the decision of Epsom & Ewell Borough Council.
 - The application Ref. 16/00213/FUL, dated 10 May 2016, was refused by notice dated 11 July 2016.
 - The development proposed is the erection of 4 new dwellings, vehicular and pedestrian access, parking and secure cycle storage and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matters

2. I have used a broader description of the address of the site to reflect the fact that the land proposed for new development lies to the rear of a number of properties and not just No.27 as described in the application form.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, including the effect on trees, and the effect of the use of the access to the site on the living conditions of neighbours.

Reasons

Policy context

4. The development plan for the area includes policies in the Core Strategy (2007) and the Council's Development Management Policies (2015). The Core Strategy precedes the National Planning Policy Framework (the Framework) but the relevant policies referred to CS1 and CS5 broadly accord with the Framework therefore these policies can be afforded significant weight.
 5. The appellant's agent accepts that the appeal does not turn on whether the Council can demonstrate a five year supply of deliverable housing sites but stresses that while the Council's last Annual Monitoring Report in 2015 indicates that the Council can demonstrate 11.1 years supply this is based on a housing requirement in the now revoked South-East Plan. The agent submits that the objectively assessed housing need of the Core Strategy is out of date and does not reflect the requirements of the Framework. On the basis of the Councils' more recent Strategic Housing Market Assessment (SHMA) the
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appellant's agent estimates that the 5 year housing supply is not met as it is in the region of 2.8 years. Thus, the appellant submits that the requirements of paragraph 47 of the Framework are not complied with and that the final bullet point of paragraph 14 of the Framework is engaged in this case. The Council's representations on the appeal do not address housing land supply.

Background

6. The appeal site comprises an oblong shaped parcel of land which lies to the rear of properties fronting Links Road and Higher Green. The latter is included in the Higher Green Conservation Area, the local boundary of which is the north-eastern edge of the application site. The properties in these streets are large detached houses with long rear gardens and have a broadly uniform design with a two storey form. Access to the appeal site is via a narrow strip of land located between No's 25 and 27. There are also many mature trees on the appeal site, principally around the boundaries, which are protected by Tree Preservation Orders.
7. In terms of planning history I note that planning permission was granted on appeal in 1987 for the erection of a dwelling on part of the appeal site. The appellant says that this development was commenced, which is disputed by neighbours, but the evidence submitted tends to suggest that this permission is still 'alive' and may be further implemented.
8. It is proposed to erect four detached houses each with three parking spaces. The houses would have a similar form of contemporary design with a principal two storey gable element in brickwork with a slate roof adjoining a two storey flat roof element with a variety of external materials combining a dark coloured render, timber cladding and glazing in aluminium surrounds.

Effect on the character and appearance of the area

9. On plan, the principle of the proposal to develop this backland site runs contrary to the established pattern of development of parallel groups of houses and gardens, but the different spatial form of the enclave of the appeal site is not readily apparent on the ground. Provided that the verdant nature of the site enclosed by vegetation remains, the principle of some development could be acceptable here as it would not intrude on the townscape formed by the surrounding properties. From my observations on site and the evidence put to me I find that the appeal site is physically distinct from regular existing gardens, particularly at No.27, and as such the specific presumption against backland development advanced in Policy DM 16 does not apply in this case as there would not be a loss of a rear domestic garden.
10. At my site visit I noted that the appeal site is located well to the rear of the established frontage properties and the development proposed would not be prominent in the public realm where only a short glimpse of part of the houses proposed would be seen from Links Road in the gap between the existing houses where the access would be formed. Further, the design of the houses put forward has a two storey form with a visually strong gable element in brickwork with a subordinate structure principally in render. Even though the overall design has a modern theme, I find that the basic form of the dwellings would be consistent with the locality where I noted there were many examples locally of houses with higher roofs and prominent gables, render and tile hanging. Further, many of these properties also have large extensions and

outbuildings which spread to the side or rear of the main house. Overall, I find that the scale and mass of the individual property type envisaged would be subordinate in scale to frontage properties and would not have a discordant effect.

11. Bearing in mind the guidance on securing good design in paragraph 60 of the Framework that planning decisions should not attempt to impose architectural styles or particular tastes and should not stifle innovation, originality or initiative to conform to certain styles, I am satisfied that the massing, proportions and overall design of the house type proposed would not be materially different to the character of the area, or harmful to its appearance.
12. Nevertheless, the layout of the four properties on the site is a concern to me. In particular, Plots A and B would occupy the wider element of the site, but the need to site them away from the trees on the north-eastern boundary of the site and allow for new planting along part of the south-west boundary, means that these plots would be sited very close together. I agree with the Council that this setting out would result in a cramped building form which would not reflect or respect the spacious character of the area even though these houses would be away from the public realm.
13. The location of the properties proposed and the effect of the development on existing trees is also an important consideration and I have also had regard to the submitted Sunlight/Daylight Assessment. I note that it is intended to site the houses outside of the crown spread of the trees and have a tree protection zone during building works. However, even if these measures was successful in protecting the trees in the short term, from my observations at my site visit about the overshadowing effect of the trees and the degree to which these would extend above the proposed houses, in my view there is likely to be pressure from subsequent occupiers to fell or reduce the trees in order to provide more daylight around their houses and gardens and to reduce the potential for the trees/leaves to fall on their property. This concern about the effect on the trees is primary in respect of plots A and D and I also share the Council's Tree Officer's concerns about the formation of the driveway to plot D within the crown spread and close to the trunk of the adjacent trees. Overall, I consider that the position and size of the four houses proposed in relation to the existing trees that are shown to be retained would be likely to threaten the future well-being of these trees which contribute to the verdant character of the site and the wider locality.
14. Overall on this issue, I find that while the principle of some form of development on this backland site is not inappropriate and that the enclosed nature of the site can reasonably accommodate houses with a modern design where the components of this are informed by existing development, the four houses put forward would result in an over-development of the site with a cramped layout particularly involving plots A and B. Further, the siting of the properties, particularly A and D, close to existing mature trees would be likely to result in pressure to fell or reduce these trees in the future. These factors taken together indicate that the development proposed would be significantly harmful to the character and appearance of the area. Such harm renders the proposal not to accord with the provisions of Policy CS1 of the Core Strategy and Policies DM5, DM9, DM10 and DM16 of the Development Management Policies Document. Notwithstanding this harm, I am satisfied that the development would have a neutral effect on the setting of the adjacent

Conservation Area as it is likely there would remain reasonable screening along the north-east boundary of the site so as to preserve the special character of the area to the north-east.

Effect on living conditions

15. The Council's concern in this regard relates to the effect of the traffic generated by the four houses on the living conditions of the occupiers of No's 25 and 27 Links Road. Local residents also raise concerns about the development giving rise to overlooking of their properties resulting in a loss of privacy and harm to their living conditions.
16. Dealing with the latter concern first, it appears to me that the layout and design of the new house has been arrived at in order to minimise overlooking from these new properties. Further, the issue of overlooking has to be considered in the context that in a general suburban area the relationship between houses often results in some degree of overlooking between houses and gardens. The proposed site plan indicates the distances between most first floor windows and the adjacent boundary of the site and I am satisfied that these broadly meet normal standards and that existing properties will not be materially overlooked.
17. In terms of the effects of the access, at the site visit I considered the relationship of this to the flank sides of No's 25 and 27 which both have a solid screen fence along this boundary with the access road. Further, I noted that the main house of No.25 is set away from the driveway by a large double garage. There is also a large double garage to the side flank of No.27 although the presence of many roof lights may suggest residential accommodation there as the Council alleges. Even so having regard to the physical relationship of the adjacent houses to the access driveway I am not convinced that there is clear evidence to establish that the limited traffic generation and movement that would arise with four houses would materially harm the living conditions of the occupiers of these neighbouring properties.

Other matters

18. Local residents also raise other concerns about the effect of the development proposed including the effect on highway safety with more traffic in Links Road; overloading the local infrastructure and drainage system; and loss of security to existing houses. However, I note that there are no objections to the development from the statutory bodies which oversee such matters and in the absence of detailed evidence to the contrary I am unable to attach much weight to these factors as being of primary concern.

Planning Balance

19. The appeal needs to be considered in the context that the government encourages sustainable development and seeks to significantly boost the supply of housing. However the local position on housing land supply is not clear cut in that while the Council's last monitoring report appears to indicate a more than adequate supply, the appellant says it is based on an objectively assessed need which is out of date. The appellant's informal re-assessment of the supply calculation suggests that in terms of the current housing need a five year supply of housing land is not demonstrated.

20. Bringing together my conclusions on the main issues I have found that while the principle of some development on this backland site is not inappropriate and the modern design of houses proposed is informed by aspects of local form and scale, the proposal would have significant adverse effects. The siting and scale of the houses, particularly the close grouping of the houses on plots A and B, would result in an intense and cramped form of over-development which would not be sympathetic to the general character of the area. Further, the scale of the properties envisaged, particularly on plots A and D would be likely to result in pressure from the subsequent occupiers which would threaten the future well-being of these protected trees. I find that these adverse effects on the character and appearance of the area would be significant and mean that the proposal does not accord with the policies in the development plan that I have identified.
21. Notwithstanding this, the other aspects of the scheme concerning the effect of the use of the access on the living conditions of the occupiers of neighbouring houses has not been shown to be a fundamental concern nor will the development cause a material degree of overlooking or a loss of privacy to wider neighbours. I have also concluded that the proposal would have a neutral effect on the setting of the adjacent conservation area.
22. These adverse effects have to be balanced with the positive aspects of development. I acknowledge that the site lies in a sustainable location and the Core Strategy seeks to make efficient use of land and the appeal site does not have any special designation other than the protection given to some trees. The proposal will contribute in a modest way to the local housing supply and there will be an economic benefit especially in the short term during the construction phase.
23. Nevertheless the adverse effects of the scheme would be significant and would demonstrably outweigh the benefits even if I were to apply the 'tilted balance' put forward in paragraph 14 of the Framework because of the alleged position on housing land supply. The harm that would be caused means that the proposal conflicts with the environmental dimension of sustainable development and so the proposal does not constitute sustainable development when the Framework is read as a whole.
24. Overall, I conclude that the other considerations that arise do not outweigh the conflict with the development plan.

Conclusions

25. For the reasons given above I conclude that the appeal should be dismissed

David Murray

INSPECTOR