



Appeal Decision

Site visit made on 22 August 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2020

Appeal Ref: APP/L3625/W/19/3230739

Land to the rear of 56-60 Epsom Lane North, Epsom Downs KT18 5PY

- 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 Mr Lee Clemson (Mantle Developments UK Limited) against the decision of Reigate & Banstead Borough Council.
 - The application Ref 18/02285/F, dated 18 October 2018, was refused by notice dated 18 April 2019.
 - The development proposed is demolition of 60 Epsom Lane North and the erection of 6 semi-detached properties to the rear of 56-60 Epsom Lane North together with access and parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Following my site visit, the Council adopted the Reigate & Banstead Local Plan Development Management Plan, 2019, (DMP). The Council submitted copies of the relevant policies from the DMP, which superseded those from the Reigate and Banstead Local Plan (2005) referred to in its decision. Policies from the latter Plan have played no part in my decision. The Council and appellant were given an opportunity to comment on these changes and I have taken these into account in my decision.
3. Amongst the Council's initial reasoning for refusing permission was a reason relating to the lack of a planning obligation to provide money for vehicle activated speed signs. Since the appeal was lodged, the appellant has submitted a unilateral undertaking (UU) that makes provision for the required payment prior to the commencement of development. I shall refer further to this matter, below.

Main Issues

4. The main issues are the effects of the proposed development on:
 - The living conditions of the occupants of 54 Epsom Lane North, having particular regard to loss of privacy; and
 - The character and appearance of the area.

Reasons

Living conditions

5. Dwellings with accommodation over three floors are proposed on plots 3, 4, 5 and 6. On each of these, rooms in the roof space are served by rooflights and each would have rear-facing bedroom windows at first floor level. These would look towards the rear garden of 54 Epsom Lane North, which abuts the south boundary of the site. That garden is extensive, though I did not access it at my site visit. However, the evidence before me, which includes photographs submitted by its occupant, indicates that its part abutting the site boundary is used for amenity purposes.
6. The proposed dwellings' rear gardens would have limited depth and thus their rear elevations would be close to the boundary with No 54. Whilst the position of the rooflights would not allow a clear view to the rear garden of No 54, their rear facing first floor windows would allow their occupants to directly overlook a substantial part of it. This would result in a significant and harmful loss of privacy to the occupants of No 54. This harm would be compounded by future occupants of the dwelling on Plot 3 having an oblique view across much of the remainder of the garden to No 54.
7. I understand that the proposal sought to address the reasons why the Inspector dismissed an earlier appeal¹ for development on the site, in which the Council had not raised the overlooking of No 54. However, this does not preclude it from finding such harm on a subsequent application.
8. I have not been given sufficient evidence with regards to the development to the rear of 86-90 Epsom Lane North to determine whether what was approved there 'mirrors' the scheme that is before me. I visited that site, but I was unable to accurately gauge the relationship between what has been built and surrounding properties from public land.
9. In the appeal decision relating to that development², the living conditions issue related to the alleged overbearing nature of the development proposed, rather than the overlooking of neighbouring properties. In that case, the Inspector stated that the proposed dwellings would be set a reasonable distance off the shared boundary. This suggests that that the rear gardens there had greater depth than would be the case here. Even if this was not the case, each proposal must be assessed on its merits and I find that the relationship is such that significant harm would arise to the living conditions of the occupants of No 54.
10. Whilst the screen fence proposed along the site's boundary would protect the privacy of the occupants of No 54 to a degree, it would not mitigate the overlooking from the proposed dwellings' first floor windows. The structured screen planting proposed within the rear gardens to Plots 3-6 might provide this mitigation. However, I have not been provided with sufficient details of this to persuade me of its effectiveness. In any event, it would be likely to take some time before such planting became established, during which the harmful overlooking would occur. Furthermore, without a planting scheme I cannot be sure that the proposed rear gardens are of sufficient depth to provide an

¹ Planning Inspectorate reference - APP/L3625/W/17/3170478

² Planning Inspectorate reference - APP/L3625/W/16/3156890

effective planted screen whilst retaining an appropriate garden area for their future occupants.

11. My finding on this issue is that, for the above reasons, the proposed development would cause significant harm to the living conditions of the occupants of No 54 by reason of loss of privacy. This would be contrary to the terms of DMP Policy DES1(5) that, amongst other things, do not support development proposals that adversely impact upon the amenities of the occupants of existing nearby buildings by way of overlooking and loss of privacy. This aim is reflected in the terms of DMP Policy DES2, with which the scheme also conflicts.

Character and Appearance

12. Epsom Lane North is a long road that is bounded on its western side by fields and a racecourse and, on its eastern side, by residential development. The latter is largely characterised by a linear development of detached dwellings set back from the road with generous rear gardens. The rear gardens run back to abut gardens of adjoining properties and a railway line to their east.
13. The proposed development would entail the demolition of the house at 60 Epsom Lane North. This would allow the creation of a cul-de-sac that would run to the bulk of the site, formed from the upper parts of the gardens to Nos 56-60. Here, it is proposed to erect 6 two-storey dwellings.
14. A number of residential cul-de-sacs have been developed along the road in a manner similar to that which is proposed. Mostly, these lie at the southern end of the road, though I saw that this form of development is also present towards its northern end. Therefore, the principle of this form of development has been established along Epsom Lane North.
15. Although I have not been provided with full details of the scheme that was the subject of the earlier appeal on the site, referred to above, it is apparent that this differed from that which is proposed here. 7 dwellings were proposed in that scheme, with a dwelling proposed to be erected adjacent to the access road fronting Epsom Lane North. It was, therefore, substantially different from the scheme before me.
16. The access road would run close to the boundary with No 58, which would only allow for limited landscaping. However, more substantive, structural planting could be undertaken on its other side. This would provide an attractive green foreground to the proposed dwellings, when seen from Epsom Lane North.
17. The layout and degree of separation, both between the proposed dwellings themselves and between these and existing dwellings, would result in an appropriate form of development. The proposed development would not equate with the "regimented" form that presented "a strong second line of development" behind the dwellings on Epsom Lane North, described by the Inspector in the earlier appeal. From both that road and the access road, the development would not appear as an unbalanced or cramped feature in the streetscape.
18. The access road and parking areas would result in a fairly extensive area of hard surfacing within the main part of the site. However, there would be opportunities for landscaping around the sides and frontages of the proposed

dwelling to mitigate any ill-effect. Although planting would not be possible along the south side of Plot 2, this would not result in such significant harm that would justify refusing permission.

19. I acknowledge the proposed dwellings would be mainly smaller and set in smaller plots than the dwellings on Epsom Lane North, particularly with regards to Plots 3-6. However, they would be comparable to the dwellings on other cul-de-sacs nearby. There is no unifying design to the development along Epsom Lane North. Although the form and design of the proposed dwellings would contrast with that of existing dwellings close to the site, I find no need to strictly adhere to the designs of those dwellings. Given this, the proposed use of partially-hipped, barn-style roofs on the dwellings would be quite acceptable.
20. I therefore find on this main issue that the proposed development would not have an adverse effect on the character and appearance of the surrounding area. The proposal would therefore accord with the terms of DMP Policy DES1 that require development proposals to demonstrate high quality design that makes a positive contribution to the character and appearance of its surroundings and reinforce local distinctiveness. These aims are reflected amongst the terms of DMP Policy DES2, with which it also accords.

Other Matters

21. Epsom Lane North is a busy B-class road, which is fairly straight with undulations along its length. It is subject to a 30mph speed limit, and has a footway along its eastern side and street lighting. Given its characteristics, the terms of Manual for Streets (MfS) are appropriate to the assessment of highway safety issues here, rather than those of Design Manual for Roads and Bridges (DMRB). The latter document is only normally relevant to trunk and primary routes.
22. The scheme proposes visibility splays with 43m sight lines along Epsom Lane North, from a point 2.4m back from the centre of the proposed access. Although 90m splays have been provided elsewhere in the area, including in the proposal that was the subject of the earlier appeal on this site, the lesser standard accords with the requirements of MfS and are acceptable here.
23. The UU submitted by the appellant secures the financial contribution towards VASS required by the Council, to be used on Epsom Lane North. In the light of this, the Council has dropped its objection on highway safety grounds, by email on the 20 January 2020. I find that, subject to the use of conditions, the scheme would provide a safe access in accordance with the terms of DMP Policy TAP1. However, given my findings in relation to living conditions, above, there is no need for me to comment on the need for, or efficacy of, the UU.
24. The scheme would provide 6 family homes on previously developed land with no flood risk, in an accessible location where the principle of residential development is supported by local and national planning policy. It would generate economic and social benefits both through the construction of the houses and by the activities of their future residents. However, this does not outweigh the harm that I have identified.

Conclusion

25. I have found that the proposal would result in a form of development that would not be harmful to the character and appearance of the area, and the Council has dropped its objection on highway safety grounds. Notwithstanding these points, the harm that I have identified to the living conditions of the occupants of No 54 would be significant and would not outweighed by the proposal. As such, it would not constitute sustainable development.
26. In the light of the above reasoning, and having taken all other matters into account, the appeal is dismissed.

Roy Curnow

INSPECTOR