
Appeal Decision

Site visit made on 4 February 2020

by Mr D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 24 February 2020

Appeal Ref: APP/P3610/W/19/3240329

Land rear of 23a to 33 Links Road, Epsom, 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 Mr Madders against the decision of Epsom & Ewell Borough Council.
 - The application Ref 19/00354/FUL, dated 6 March 2019, was refused by notice dated 31 May 2019.
 - The development proposed is the erection of 4 new dwellings and associated access, parking, and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A previous planning application at the site involving the erection of 4 new dwellings, vehicular and pedestrian access, parking and secure cycle storage and landscaping was dismissed at appeal in 2017¹. I have paid regard to this decision, while at the same time considering this appeal on its own merits.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the surrounding area, including trees and whether it would preserve or enhance the character or appearance of the Higher Green Conservation Area.

Reasons

4. The appeal site is an oblong parcel of land to the rear of properties that front Links Road and Higher Green. Whilst not within a conservation area, the boundary of the Higher Green Conservation Area runs along the rear of the site. The area is residential in character and the surrounding properties mostly comprise large detached houses of traditional appearance, set back from the road with large rear gardens. Access to the appeal site is gained from Links Road via a narrow strip of land between the single storey garages of Nos 25 and 27. There are a number of mature trees on the appeal site, mostly around the boundaries, some of which are protected by Tree Preservation Orders (TPOs).

¹ APP/P3610/W/16/3165832

5. The proposed development would erect 4 detached dwellings on the appeal site. The development would maintain and upgrade the existing access from Links Road and provide additional hardstanding and turning areas within the site, including parking spaces for each of the dwellings.
6. In terms of layout, there would be 2 dwellings either side of the main access. These are referred to on the plans as plots A and B, on one side, and plots C and D, on the other. The 4 dwellings would be arranged at angles to each other and would be of similar scales and contemporary designs. They would share common features such as pitched roofs, use of different facing materials at ground and first floor levels, and cantilevered first floor elements.
7. In terms of applicable policy, I have considered the extent to which policy DM16 of the Epsom and Ewell Development Management Policies Document applies to the proposed development. There appears to be consensus amongst the main parties that the appeal site is not a rear garden. As such, the specific presumption against the loss of rear domestic gardens in policy DM16 does not apply.
8. The proposed development would be located to the rear of the established frontage properties on Links Road and Higher Green. There is a strong rhythm to the positioning of the front of these properties that contributes to the character of the area. The proposed development would not follow this rhythm. However, due to the back land location of the site, the dwellings would only be partially visible from the street at limited vantage points on Links Road. As such, the proposed development would not be seen as forming part of the immediate context of the frontage properties on Links Road and Higher Green and is therefore acceptable in terms of its impact on the street scene.
9. Notwithstanding the acceptable impact on the street scene discussed above, the layout and design of the proposed development is a concern due to its effect on the character and appearance of the area as experienced from the rear of properties on Links Road.
10. The surroundings to the rear of Links Road are characterised by the sense of openness and verdant nature provided by deep rear gardens and mature trees and planting. While reduced in scale from the previous appeal proposal to provide greater separation distances between the dwellings, the current proposal would still represent a dense form of development that would be inconsistent with the open character of the surroundings.
11. As a result of the density, in views from surrounding properties the dwellings would appear close together which would give them a cluttered appearance. The positioning of the dwellings, at angles to each other, would contrast poorly with the more regular pattern of building in the area and would further reinforce the cramped appearance. The associated parking and turning areas would add to the cluttered appearance that would be at odds with the openness of the surroundings.

12. Moreover, elements of the proposed development would add to the concerns about the layout expressed above. The cantilevered first floor elements, long unbroken roof forms, and large amounts of glazing at ground floor level in comparison to the solid elements at first floor level would all combine to give the dwellings a perceived bulk at upper levels. As such, the design approach adopted would increase concerns about the cluttered nature of the dwellings, rather than taking the opportunity to integrate them into the surroundings in order to lessen the impact.
13. The appellant places emphasis on the proposed development meeting the concerns raised in the previous appeal, in particular in relation to the layout and scale of development. However, I do not find that the previous appeal decision gives such firm direction to suggest that this proposed development would be acceptable.
14. Trees within and close to the boundary of the appeal site are significant features and contribute to the character of the area. The Arboricultural Method Statement submitted with the planning application indicates the proposed development would result in the removal of several unprotected trees and 3 trees that are protected by TPOs.
15. Two of the TPO trees for removal are identified in the method statement as Silver Birches and are located on the plot A and B side of the access. These trees are assessed as being in poor condition and in decline and would be replaced by 6 new trees in a similar location. Overall, I am satisfied that the removal and replacement of these trees would result in adequate tree coverage on the plot A and B side of the site.
16. Notwithstanding the above, I have concerns about the impact of tree removal and impact on the plot C and D side of the site, in particular the trees at the boundary with properties on Links Road. The removal of the TPO tree identified in the method statement as a Horse Chestnut and other unprotected trees on this side of the site, on the grounds that they would be too close to the proposed dwellings or result in insufficient amenity space being provided, lacks particular justification. I consider that the removal of these trees would have a detrimental impact on the open and green nature of the surroundings that would be particularly experienced from the rear of properties on Links Road that would back on to plots C and D. Whilst the unprotected trees scheduled for removal in this location may not be fine specimens, they provide important screening and collectively make a contribution to the character of the surroundings.
17. I note concerns about pressure for future removal and other works to trees that could result from the proposed development. However, I judge that this risk has been adequately managed by amending the location of the dwellings and reducing their footprints. Similarly, the method statement demonstrates adequately that underground services could be provided to the proposed development without intruding on the root protection areas of trees.

18. The appeal site is at the boundary of the High Green Conservation Area. Whilst not in a conservation area itself, in considering the proposed development I have had regard to the duty to pay special attention to the desirability of preserving or enhancing the setting of the adjacent Higher Green Conservation Area. Notwithstanding the harm identified above relating to impact on the properties on Links Road, given the location of the proposed development in relation to the properties on Higher Green and the screening that would remain, I am satisfied that the proposed development would have a neutral impact on the setting of the adjacent conservation area.
19. My attention is drawn to other housing developments on Links Road that are thought to share some features with the proposed development. Whilst on the same road as the appeal site, these developments are some distance away and do not therefore form part of the immediate context. As such, I give the presence of these developments limited weight.
20. In light of the above, I conclude that the proposed development would have a harmful effect on the character and appearance of the surrounding area and nearby trees. Consequently, I find conflict with policies in the Epsom and Ewell Development Management Policies Document. In particular, DMP9 and DMP10 which seek to achieve development that is of a high standard of design and include requirements relating to compatibility with local character, scale, layout, and other design features, and DM5 in relation to the protection and enhancement of trees.

Planning balance

21. The appellant argues that permission should be granted as the Council cannot demonstrate a 5 year supply of deliverable housing sites at present. In such circumstances, in line with footnote 7 to paragraph 11(d) of the National Planning Policy Framework ('the Framework'), relevant policies in the Local Plan should be regarded as out of date and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
22. The appellant has submitted that the Council can only demonstrate 1 year of housing supply, evidenced principally by a statement on housing land supply that was presented to the Council's Planning Committee in February 2019. The Council does not contest that it cannot demonstrate a 5 year housing land supply and does not present evidence to suggest that the shortfall is not in the order suggested by the appellant.
23. As such, it is necessary to assess the proposed development against the requirements of the presumption in favour of sustainable development in paragraph 11 of the Framework, also known as the tilted balance.
24. Firstly, none of the relevant policies in the Framework apply that are designed to protect area or assets of particular importance, as set out in footnote 6 to paragraph 11(d)(i).

25. To assess whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits it is necessary to consider the benefits of the proposed development against the policies in the Framework taken as a whole. This includes the stated purpose of the planning system, which is the achievement of sustainable development – comprising the three overarching social, economic, and environmental objectives.
26. The benefits of the proposed development primarily relate to the contribution that it would make to housing supply in the area, and the overall social and economic benefits that this brings. It is acknowledged that the proposed development would only result in the addition of 4 dwellings, which in itself is only a very small contribution to housing supply but beneficial nevertheless. There would also be economic investment, and therefore benefits, resulting from both the construction and subsequent occupation of the proposed development.
27. The adverse impacts identified are on the harmful effect on the character and appearance of the surrounding area and nearby trees. These adverse impacts are discussed in detail above and principally related to the Frameworks aims of achieving well designed places.
28. It is acknowledged that the principle of achieving some development on the appeal site is acceptable. It is also noted that, while the proposed dwellings have not been reduced in number, changes have been made following the previous appeal decision and the dwellings have reduced in scale and have changed position, with some consequent improvements on the relationship with some of the trees on and near the appeal site.
29. Notwithstanding this, the scale and density of the development proposed would have a harmful impact on the character and appearance of the surroundings and result in the loss of trees that make an important contribution to the area. I consider that the level of impact identified would be severe and that the contribution to housing supply and other benefits offered by the proposed development would not balance in favour of granting planning permission.
30. As such, applying the tilted balance in the Framework, I conclude that the identified adverse impacts of the scheme would significantly and demonstrably outweigh the benefits. The harm would be such that the proposed development would not constitute sustainable development when the Framework is read as a whole.

Other matters

31. I have been referred to a planning permission from 1987 that is said to be extant for the construction of a single dwelling on part of the appeal site. I judge that the existence or otherwise of an extant permission of this nature has limited effect on my conclusions in this appeal. As such, I give this matter little weight.

32. Representations from other parties in response to the original application and this appeal are noted, included a petition and a letter from the local MP. Some of the representations received support the Council's reasons for refusal and are discussed above. I have taken other representations into account, including those relating to traffic and highways, other amenity concerns, how the development will be financed, and numbers of repeat applications. These are matters which do not affect my findings on the main issues.
33. In relation to concerns raised about ecology. My attention is drawn to the ecological report submitted with the planning application and the subsequent comments from the Council. These indicate that the proposed development would be acceptable, subject to the retention of a log pile between plots C and D. Given the decision reached on other matters in this appeal I do not find it necessary to reach a conclusion on this matter.

Conclusion

34. For the above reasons the appeal is dismissed.

D.R. McCreery

INSPECTOR