
Appeal Decision

Site visit made on 18 February 2020

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 23 April 2020

Appeal Ref: APP/P3610/W//19/3238840

1 Higher Green, Ewell KT17 3BB

- 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 Trafalgar Property Group PLC against the decision of Epsom & Ewell Borough Council.
 - The application Ref 19/00758/FUL, dated 14 June 2019, was refused by notice dated 12 September 2019.
 - The development proposed is the erection of new 2 ½ storey dwelling and associated landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of new 2 ½ storey dwelling and associated landscaping and parking at 1 Higher Green, Ewell KT17 3BB in accordance with the terms of the application, Ref 19/00758/FUL, dated 14 June 2019 and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. As the appeal property lies within the Higher Green Conservation Area I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the Higher Green Conservation Area, in terms of impact on trees.

Reasons

4. The Higher Green Conservation Area is characterised by large houses set in generous plots. The green spaces and trees between built forms are important features that enhance the character and appearance of the area and contributes significantly to the verdant nature of the surroundings.

5. The proposed dwelling would result in the removal of several trees on the site, with some replacements also proposed. The trees for removal are identified in the appellant's Arboricultural Report as being of low quality and, with the exception of the Lime tree discussed below, the plans before me show that the dwelling would be constructed outside of the root protection areas of all other trees that are to be retained. I have considered the evidence and agree with the Council's assessment that the removal of these trees would be acceptable in terms of overall impact on the character and appearance of the area. Furthermore, I also note evidence submitted by the appellant relating to retention and protection of the remaining trees on site during construction. I am satisfied that this matter can be dealt with by condition.
6. The Council raise concerns about pressure in the future to remove an existing Lime tree that is located at the boundary of the site with the road and would be near to the side wall of the proposed dwelling. Given its prominent location at the boundary, its scale, and general appearance, this tree makes a positive contribution to the character and appearance of the conservation area.
7. The proposed dwelling would be orientated so that the main habitable room windows do not face the Lime tree and that other windows in the side elevation nearest the tree are limited. The main amenity spaces for the dwelling are also to the front and rear, rather than the side. As such, the Lime tree's degree of impact on the living conditions of future occupiers of the dwelling would not be such that it would lead to pressure for removal.
8. The arboricultural report submitted by the appellant indicates that the tree would need to be lightly reduced back once every 3 years or more. This could take place in accordance with existing best practice and could accommodate future growth of the tree. I find this satisfactory in terms of maintaining the presence of the tree in the overall street scene.
9. While the proposed development would result in a degree of incursion into the root protection area of the Lime tree, I consider that this would be very modest and would therefore be unlikely to detrimentally affect it. I acknowledge the Council's view that they would prefer to see a 7.5 metre clearance between the centre of the Lime tree trunk and the building line. However, I see nothing significant in the evidence to suggest that such a clearance is justified in this case.
10. In light of the above, I conclude that the overall impact on trees resulting from the proposed development would preserve the character and appearance of the conservation area. Consequently, I do not find conflict with Policies DM5 and DM8 of the Epsom and Ewell Development Management Policies Document which relates to the conservation of heritage assets and protection and enhancement of trees.

Other Matters

11. Representations from other parties that relate to the reasons for refusal are discussed above. Some of the other issues raised are discussed below but do not affect my findings on the main issues.

12. In relation to visual impact, the proposed dwelling would be of a scale and general appearance that follows others in the area in terms of the overall design approach. The front building line would also be consistent with neighbouring properties and would preserve the set back and sense of openness to the front. A dwelling in this location would have an impact on the open nature to the side of the existing dwelling. Notwithstanding this, I do not consider the degree of impact to result in a cramped form of development nor to compromise the overall openness and sylvan nature of the surroundings and I otherwise consider that the proposal would have an acceptable impact on the character and appearance of the area.
13. In relation to highways issues, I note that the proposed development includes provision for 3 off street car parking spaces to the front, which would be facilitated by a new crossover. Whilst concerns relating to the proximity to the junction with Wallace Fields and nearby school are noted, given the scale of development and the general character of the area, the proposed arrangements would not have a harmful effect in terms of impact on the highway or living conditions. These matters can also be adequately controlled using conditions, including requiring the submission and approval of a construction management plan that would include measures to ensure highway safety and living conditions are not unduly impacted during construction.
14. I have considered other evidence relating to impact on living conditions, including loss of outlook, overshadowing and privacy. Given the location of the proposed dwelling and the distance from and relationship with neighbouring properties, in particular those to the side and front, I conclude that it would not have a harmful effect in terms of impact on living conditions.
15. General comments relating to other types of development that the Council have allowed and resisted in the area and previous proposals on the appeal site are noted but can be given limited weight in deciding this appeal on its own merits.

Conditions

16. The Council requests that several conditions be imposed, which I will consider by reference to the numbering set out in the schedule attached to this decision. The three year period in which the planning permission may be implemented (1) is a statutory requirement. I also consider that it is necessary in the interests of clarity to specify the plans that are approved (2).
17. I have included conditions requiring the approval of materials to be used on the exterior of the dwelling (3), and details of hard and soft landscaping (9) and boundary treatments (4) in the interests of preserving the character and appearance of the conservation area.
18. In the interests of highway safety, preserving the living conditions of nearby occupants, and to respond to third party concerns, I have included a condition that requires the submission and approval of a construction management plan (5). This has been worded as a pre-commencement condition as it is important to ensure that measures relating to highways impact are in place prior to work starting on site.

19. I have not included a requirement relating to the funding of repairs to the highway as financial commitments of this type cannot be secured via planning condition. Nevertheless, I consider that such a requirement for a development of this scale is not necessary. I have included conditions relating to the provision of parking and turning areas and visibility splays (7) in the interests of highway safety.
20. I have included a condition relating to the provision of bat and bird boxes and bee bricks (6) in the interests of enhancing local biodiversity. I have included a condition relating to the provision of an electric vehicle charging point (8) in the interests of securing sustainable development. I have not included the Council's suggested condition relating to water efficiency as this matter would be covered by other regulatory regimes (i.e. the Building Regulations) and what further the condition would achieve is unclear from the evidence.
21. I have included a condition removing permitted development rights for the insertion of windows in the side elevations of the new dwelling (10). I am mindful of paragraph 53 of the Framework, which advises that permitted development rights should not be removed without clear justification. Given the constraints of the appeal site, and proximity to No.1 Higher Green, I judge that clear justification for the removal applies in this case in the interests of ensuring good levels of privacy.
22. In the interests of protecting trees on the site I have included conditions requiring the provision of the tree protection measures indicated in the submitted arboricultural report (11) and relating to work being undertaken within root protection areas (12).
23. Where they have suggested them, the conditions above mostly follow the wording put forward by the Council, with some amendment to improve legibility or to change the timing for submission of details where timing other than prior to commencement would be more appropriate.

Conclusion

24. For the above reasons the appeal is allowed and planning permission is granted subject to the conditions set out in the attached schedule.

D.R. McCreery

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1HGP1, 1HGP2, 1HGP3, DPA7059-01A, DPA7059-02A.
3. No development above foundation level shall take place until details and samples of the external materials to be used for the dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
4. The dwelling shall not be occupied until details of all boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation of the development or phased as agreed in writing by the Local Planning Authority.
5. No development shall commence until a Construction Transport Management Plan, to include details of:
 - (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) measures to prevent the deposit of materials on the highway
 - (e) on-site turning for construction vehicles or equivalent traffic managementhas been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
6. The dwelling shall not be occupied until details of bat boxes, swift and bee bricks and bird boxes to be installed on the dwelling are submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to first occupation of the dwelling and maintained thereafter.
7. The development hereby approved shall not be first occupied until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear (including the provision of access visibility splays for vehicles and pedestrians). Thereafter the parking and turning areas and visibility splays shall be retained and maintained for their designated purposes.
8. The dwelling shall not be occupied until it is provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) and it shall be thereafter retained.
9. The development shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping. The approved scheme shall be implemented prior to the occupation of the dwelling or phased as agreed in writing by the Local Planning Authority.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting this Order) no windows or other openings (other than those hereby approved) shall be formed in the side walls of the building hereby approved without the prior written consent of the Local Planning Authority.
11. No demolition, site clearance or building operations shall commence on site until the protective fencing and other protection measures as shown in the arboricultural report by DPA Consultants dated June 2019 (including drawing DPA-7059-02A) have been installed. At all times until the completion of the development, the fencing and protection measures shall be retained. Within all fenced areas, soil levels shall remain unaltered and the land kept free of vehicles, plant, materials and debris.
12. Excavation within the root protection areas shown on drawing DPA-7059-02A shall be undertaken by hand under arboricultural supervision and in accordance with all other recommendations set out in arboricultural report by DPA Consultants dated June 2019.