

Appeal Decision

Site visit made on 2 July 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th July 2020

Appeal Ref: APP/P3610/W/19/3239362

Invermene House, Epsom Road, Epsom KT17 1JW

- 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 Keith Roach against the decision of Epsom & Ewell Borough Council.
 - The application Ref 19/00621/FUL, dated 22 May 2019, was refused by notice dated 19 August 2019.
 - The development proposed is 1 x two bedroom flat and 1 x one bedroom flat.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant refers to an alternative option for the internal layout of the development and changes to windows and lightwells. However, no plans detailing precisely what any such revisions might entail have been provided and so I am unable to consider this suggested alternative further. I have therefore determined the appeal on the basis of the development considered by the Council.

Main Issues

3. The main issues are (i) whether or not living conditions for future occupiers would be acceptable with particular regard to light, outlook and external amenity space provision, and (ii) the effect of the proposal on highway safety.

Reasons

Living Conditions

4. The appeal relates to the basement level of Invermene House where 2 flats are proposed. Dining/living spaces for both flats, as well as a bedroom to Flat 1 would be within the front part of the building. These rooms would be served by lightwells topped with grating at the external ground level, while kitchens opening from the dining/living spaces would rely on borrowed light from these rooms. To the rear part of the building, the second bedroom to Flat 1 would have a window to the rear, although this would be set at external ground level. The floorplans also suggest a second window for this room to the side of the building. Although this is not shown on the elevations, given the apparent floor level of the flat above, it is likely that any window here would also be fairly close to ground level.
5. I have not been provided with any detailed assessment considering light levels

within the flats which limits the weight that I can place on the appellant's suggestion that provision would be sufficient. In my view, the scale of the lightwells and windows to these rooms and their position at ground level, together with their proximity to either vehicles parked in spaces to the front of the building or the boundaries to the sides of the site would result in very limited natural light. As a result, I find that these spaces, which make up the majority of the accommodation for both flats, would be distinctly gloomy and would rely heavily on artificial light.

6. In addition, the level and limited depth of lightwells would inhibit open aspect and opportunities for views from within rooms that they would serve, and there would be no direct outlook for the kitchens. Outlook for the windows to the rear bedroom of Flat 1 would also be restricted by their position at or close to ground level, and the close proximity of the side window to the fence on the boundary of the site. As a consequence, outlook from these rooms would also be severely compromised, and the resulting significant sense of enclosure would be oppressive.
7. No outdoor private amenity space is indicated for the proposed dwellings. To the rear of the building, I saw that there is a small patio with an area of grass and planting behind which appears to provide a fairly small area of communal amenity space. I note that interested parties have suggested that the whole of the area to the rear of the building does not fall within the freehold of Invermene House. While I saw no formal subdivision between these areas, from the information before me, I am unable to draw any firm conclusion on the amount of communal amenity space that is available.
8. Policy DM12 of the Development Management Policies Document 2015 (DMPD) requires that development provides appropriate external private and/or communal amenity space. Where flatted development is proposed, DMPD paragraph 3.36 seeks a minimum of 5sqm private amenity space per 1-2 person dwelling, with a further 1sqm per additional occupant. However, the DMPD recognises at paragraph 3.38 that there may be situations where provision of external amenity space on site is not achievable.
9. Given that the flats are proposed within the lower ground level of a building that is already occupied as flats, I acknowledge that provision of external amenity space may be challenging. Although the quantum of communal space is unclear, there is some space available and I have not been directed to any specific standard for communal space relevant to flatted developments which the application of Policy DM12 would be conditional on. While I do not therefore find that the provision of external space would in this case be determinative, the lack of private amenity space would nevertheless add to the poor living conditions for future occupiers.
10. The internal area of the flats would exceed the Government's 'Technical housing standards - nationally described space standards', and fenestration to the bedroom to Flat 2 would provide suitable levels of light and outlook for this room. However, these factors would not compensate for the overall poor living conditions resulting from the lack of private amenity space together with inadequate light and outlook for much of the area within both flats.
11. I therefore conclude on this main issue that the development would fail to provide acceptable living conditions for future occupiers. The proposal would conflict with Policy DM12 of the DMPD which seeks good quality new homes

and includes, amongst other things, a requirement that new dwellings provide adequate internal space and appropriate external private and/or communal amenity space.

Highway Safety

12. The appellant advises that no additional parking spaces are proposed, and indicates 6 spaces across the front of the building on the proposed plans. It appears that spaces have historically been marked out on the site, but these are no longer clearly visible. At my visit, there were 2 vehicles parked to either side of the entrance to the front of the building. Although it appeared that the space between these would be wide enough to accommodate 2 further vehicles, it seems likely that vehicles parked in such a way could result in some obstruction to pedestrian access to the building. The soft landscaping and low wall to the front of the site would also seem to make manoeuvring in or out of these central spaces difficult, particularly if vehicles were already parked behind the two vehicular accesses to the site from Epsom Road.
13. Even if I were to accept that there would be no increase in the number of parking spaces over the existing situation, there is no compelling evidence before me to demonstrate that future occupiers of the flats would not own or use a vehicle or seek to park on the site as other existing occupiers do. As such, and given the proposed increase in dwellings, I find that the development would be likely to result in additional vehicle movements to and from the site.
14. No tracking details have been provided to demonstrate that there is sufficient space to enable vehicles parked to the front of the building to enter and leave the site in a forward gear. I cannot therefore be certain that vehicles would not be required to reverse either to or from Epsom Road.
15. Epsom Road is a Class A road subject to a 30mph speed limit. At the time of my visit, it was reasonably busy as it passed the site, and my impression was that vehicles were generally travelling at around if not above the speed limit. I have not been provided with evidence of a pattern of incidents nearby which might suggest a pressing existing highway safety concern. However, the development would give rise to additional vehicle movements, and would consequently increase the potential for conflict between vehicles reversing to or from the site and other highway users to the detriment of safety.
16. I am not therefore satisfied that safe and suitable access for the development has been demonstrated, and I conclude on this main issue that the proposal would cause unacceptable harm to highway safety on this classified road. It would therefore conflict with Policy DM35 of the DMPD which requires consideration for the impact of development on the transport network.

Planning Balance

17. I have found that the development would cause unacceptable harm to highway safety and to the living conditions of future occupiers and would thus conflict with Policies DM12 and DM35 of the DMPD. These policies are therefore most important for determining the proposal. However, the main parties indicate that the Council is unable to demonstrate a 5-year supply of deliverable housing sites and so in accordance with the National Planning Policy Framework (the Framework), these policies would be considered to be out-of-date. In those circumstances, paragraph 11 of the Framework indicates that planning

- permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
18. Insofar as they seek safe and suitable access and a high standard of amenity for future occupiers of development, I find that Policies DM12 and DM35 of the DMPD are broadly consistent with expectations outlined within the Framework. The conflict with these policies would therefore carry significant weight.
19. Set against this, the proposal would make efficient and effective use of the site which is within the built-up area, and would provide 2 additional dwellings to the supply of housing in an area where the Council indicate that there is a significant shortfall. These are facets which are strongly supported by the Framework. However, the small scale of the development would limit the contribution to the supply of housing overall and against the shortfall, and I afford modest weight to this benefit.
20. I recognise that the Framework offers support at paragraph 131 for outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design in an area, and that the appellant has sought to work within the constraints of the appeal site. Be that as it may, I have found that living conditions for future occupiers would be poor, and in my view the development would not therefore represent a design that would raise standards. That the development would not harm neighbouring occupiers or the character of the area are neutral factors which weigh neither for nor against the proposal.
21. The harm I have identified to highway safety and to the living conditions of future occupiers would be significant. In the context of paragraph 11(d) of the Framework, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development set out at paragraph 11(d), and I find that other considerations including the Framework do not outweigh the conflict with the development plan when it is read as a whole.

Other Matters

22. I have considered comments made by interested parties which refer to matters such as the impact of development on existing occupiers; disruption to utilities; structural problems; flood risk and a lack of proposed landscaping. However, these matters do not alter my findings on the main issues in this appeal. I have also noted comments that the development would affect areas which fall outside of the lease for the basement level of the building, but that is a separate matter which does not affect my conclusions on the planning merits of the appeal.

Conclusion

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

J Bowyer

INSPECTOR