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## Appeal Decision

Site visit made on 15 October 2020

**by Christopher Miell MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> October 2020**

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**Appeal Ref: APP/D3640/W/19/3241293**

**25 Kingsley Avenue, Camberley, Surrey GU15 2NA**

- 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 Leslie Dickin against the decision of Surrey Heath Borough Council.
  - The application Ref 19/0288, dated 15 April 2019, was refused by notice dated 5 July 2019.
  - The development proposed is described as "to build a four-bedroom detached house in part of the garden of the existing detached property. An existing detached garage/workshop is to be demolished. New detached garages are to be built i.e. one for each property".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appellant submitted amended plans part way through the determination of the planning application. For the avoidance of doubt, I have determined this appeal on the basis of the amended plans.
3. Following the refusal of planning permission, the appellant has paid a Strategic Access Monitoring and Maintenance contribution ('SAMM') to the Council. Consequently, the Council state that they no longer wish to defend the second reason for refusal which relates to the effect of the proposal on the Thames Basin Heaths Special Protection Area. I return to this matter later in this Decision.

### Background

4. When the original application was determined the Council acknowledged that they could not demonstrate a five-year supply of deliverable housing sites. However, following the submission of the appeal, the Council state that they are now able to demonstrate a five-year supply of deliverable housing sites, as demonstrated by the publication of the Council's Housing Land Supply Paper 2019-2024. The Council's current housing land supply position has not been disputed by the appellant. Consequently, the presumption in favour of sustainable development contained in paragraph 11(d) of the National Planning Policy Framework (the 'Framework') is not engaged.

## **Main Issues**

5. The main issues are:

- the effect of the development upon the character and appearance of the area.
- whether satisfactory living conditions would be provided for future occupiers of the proposed development in respect of the provision of outdoor space.

## **Reasons**

### *Character and appearance*

6. The appeal property is a large two-storey dwelling located within a substantial triangular shaped plot on Kingsley Avenue. The site boundaries are defined by mature trees and landscaping, which includes a group of protected trees located along the north east boundary.
7. It is proposed to erect a two-storey detached dwelling to the side of the existing dwelling. In addition, two detached garages would be built at the site, one for each of the respective properties. To facilitate the proposed development, an existing garage/workshop building would be demolished.
8. The appeal site is located within the Hedged Estates Character Area as identified by the Western Urban Area Character Supplementary Planning Document (the 'WUAC SPD'). The area has a suburban residential character and the properties on Kingsley Avenue are predominately two-storey detached dwellings located within generous plots with good sized gaps between properties. Many of the properties have well-landscaped gardens that feature mature trees and soft landscaping. These factors create a spacious and verdant character that contributes positively to the local distinctiveness of the area.
9. The plot size for the proposed dwelling would be smaller than the prevailing pattern of development in the local area. However, owing to the triangular shaped plot, which would have a wide frontage and taper inwards to the rear of the property, the moderate size of the plot would not be apparent when viewed from the street. Moreover, the resultant plot for the existing dwelling would still be of a considerable size. For these reasons, the sub-division of the existing plot into two smaller plots would preserve the area's spacious character.
10. Notwithstanding the above, the proposed dwelling would occupy a substantial proportion of the plot width and it would be sited in close proximity to the existing dwelling. As such, the proposed development would have a cramped appearance and would be out of keeping with the spacious character of the local area. Consequently, the proposal would be an incongruous form of development, which would cause significant harm to the character and appearance of the area.
11. Further to the above, the proposed garage for the new dwelling, by virtue of its excessive height and positioning near to the front of the appeal site, would appear as an intrusive and unduly prominent form of development when viewed from Kingsley Avenue.
12. The appellant explains that landscaping would be planted to screen the garage from public view. However, no substantive information has been provided

- about the type of landscaping screening that could be achieved on the relevantly small strip of land that would remain between the proposed garage and the pavement. Moreover, landscape screening cannot be guaranteed in perpetuity due to factors such as disease and accidental damage.
13. I recognise that the Council granted planning permission for a garage to the front of No 27 Kingsley Avenue. However, the development was approved before the adoption of the Surrey Heath Core Strategy and Development Management Policies 2011-2018 (the 'CS') and the WUAC SPD when different development plan policies may have applied.
  14. To this regard, the proposal would conflict with Guiding Principle HE2 of the WUAC SPD which explains that new development located within the Hedged Estates Character Area that has a cramped or overly prominent appearance will be opposed. Consequently, the proposal would also conflict with Guiding Principle WUA3 of WUAC SPD which states development that adds to existing pressures on a Character Area will be resisted.
  15. The Council contend that the proposed development would restrict views of the existing trees and mature landscaping from the street. Whilst I acknowledge the existing view would change, the existing trees at the appeal site are mature specimens with high canopies, and, thus views of the tree canopy behind the proposed dwelling would remain from Kingsley Avenue. As such, I find that this aspect of the development would not harm the character and appearance of the area.
  16. Consequently, the proposal would not conflict with Guiding Principle HE1 of the WUAC SPD which explains that development should maintain the area's verdant character. Moreover, there would be no conflict with Guiding Principle HE3 of the WUAC SPD which states where development erodes the soft green character of the area it will be resisted. Despite this, the harm identified above is sufficient to justify dismissing the appeal.
  17. The appellant has drawn my attention to several residential developments within the wider area on Park Avenue, Heatherdale Road, Tekels Avenue, Watchetts Drive, Parkway and Brackendale Road. However, such development is not seen in the context of the appeal site and does not therefore contribute directly to the local distinctiveness of the immediate area. Indeed, the Council explain that the development at 1A Heatherdale Road is not within the Hedged Estates Character Area.
  18. Moreover, the appellant explains that planning permission has been granted for large side extensions to several existing dwellings on Kingsley Avenue, which has brought built development closer to the site boundaries. Whilst this may be the case, this does not provide justification for the harm that would arise if the appeal were allowed.
  19. For the reasons set out above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. As such, the proposal would not accord with Policies CP2 and DM9 of the CS in so far as they require new development to be of a high-quality design which respects and enhances the local character.

20. Accordingly, the proposal would also be inconsistent with paragraph 127(c) of the Framework, which requires development to be sympathetic to the local character.
21. In addition, the proposal would not accord with advice contained within the Council's Residential Design Guide Supplementary Planning Document (the 'RDG SPD'). In particular, the proposal would conflict with Principle 7.4 which explains that new development should reflect the spacing of existing buildings.
22. The first reason for refusal on the Council's decision notice refers to Guiding Principle WUA4 of the WUAC SPD in respect of this main issue. However, this relates to development within, and adjacent to, a conservation area, which is not the case with regards to the appeal site. Therefore, it is not applicable to this main issue.

*Living conditions for future occupiers*

23. Principle 8.4 of the RDG SPD explains that new dwellings which have 4 or more bedrooms and with predominantly north facing private amenity spaces should provide a minimum of 85 square metres of outdoor amenity space. It also states that private gardens should not be heavily overshadowed by trees and tall hedges.
24. The parties agree that the amount of outdoor amenity space associated with the proposed dwelling would exceed the minimum standard. However, the Council argue that the rear garden would have a limited usable area due to the tree cover and overshadowing caused by the protected trees along the side boundary. As a consequence of the overshadowing, the Council contend that the development would cause pressure to prune the protected trees at the appeal site.
25. The appellant explains that the rear garden for the proposed dwelling would provide 200 square metres of outdoor amenity space. This calculation has not been disputed by the Council. Even if I were to accept that some of the rear garden would be unusable due to the existing tree cover, the amount of outdoor amenity space far exceeds the minimum standard set by Principle 8.4 of the RDG SPD.
26. In terms of overshadowing, I recognise that a degree of overshadowing of the rear garden may occur in the morning and early afternoon due to the orientation of the trees relative to the rear garden. However, the western aspect of the garden is largely open and unimpeded by tree cover, and, thus there would be very limited overshadowing from mid-late afternoon through to the evening. Therefore, the rear garden would provide a suitable area to support a range of household activities such as drying washing, sitting outside and outdoor play.
27. For these reasons, I conclude that satisfactory living conditions would be provided for future occupiers of the proposed development in respect of the provision of outdoor space. Consequently, I am satisfied that the proposed development would not cause undue pressure to prune the existing protected trees at the appeal site.
28. As such, the proposal would accord with Policy DM9 of the CS, in so far as it would provide sufficient private amenity space and protect trees that are worthy of retention.

## **Other Matters**

29. The appeal site is within the 5km buffer zone of the Thames Basin Heaths Special Protection Area (the 'SPA'). Had the proposal been acceptable in planning terms, it would have been necessary for me to determine the acceptability or otherwise of the appellant's SAMM contribution and undertake an Appropriate Assessment (AA) as the competent authority. However, regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission.
30. The proposed development would provide accommodation for the appellant's extended family. However, this benefit would not overcome or outweigh the conflict I have identified with the development plan policies outlined above.

## **Conclusion**

31. The proposed development would provide satisfactory living conditions for future occupiers of the proposed dwelling in respect of the provision of outdoor space. However, this would not overcome or outweigh the significant harm that would be caused to the character and appearance of the area. Accordingly, I conclude that the appeal should be dismissed.

*Christopher Miell*

INSPECTOR