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## Appeal Decision

Site visit made on 14 December 2020

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 30 December 2020**

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**Appeal Ref: APP/P3610/W/20/3256870**

**6 The Grove, Epsom, Surrey KT17 4DQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Stan Koper of Oakton Developments Limited against Epsom & Ewell Borough Council.
  - The application Ref 20/00313/FUL, is dated 21 February 2020.
  - The development proposed is erection of 7 x two bedrooms flats and 2 x three bedrooms flats and associated external works following demolition of the existing building.
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### Decision

1. The appeal is dismissed and planning permission is refused for erection of 7 x two bedrooms flats and 2 x three bedrooms flats and associated external works following demolition of the existing building.

### Procedural Matters

2. The Council did not determine the application. It has indicated that, had it been in a position to do so, it would have refused permission for reasons relating to the quality of the living accommodation provided within the scheme and the impacts of the development on the conservation area and the amenities of neighbours. Concerns are also raised regarding the quantum of car parking.
3. Further to a prior written invitation from the neighbours, my site visit included an assessment of the proposal from the rear garden of 7 The Grove.

### Main Issues

4. The main issues are:
  - a) whether the proposal would preserve or enhance the character or appearance of the Church Street Conservation Area;
  - b) the effect on the living conditions of the occupants of 7 The Grove, with particular reference to outlook and privacy;
  - c) whether the scheme would provide adequate living conditions for future occupants, with regard to the internal accommodation and compliance with the Nationally Described Space Standard; and
  - d) whether the scheme would make appropriate provision for car parking.

## Reasons

### *Conservation area*

5. The Grove is a relatively recent addition to the Church Street Conservation Area, the boundaries having been extended following a review in 2010. This area historically formed part of the grounds to Grove House which is Grade II listed. Those grounds were subdivided into separate plots which have been developed for a mix of flats and houses, organised around a cul-de-sac with a turning circle at its far end. The purpose-built flatted development is somewhat humdrum and has been omitted from the conservation area, together with a pair of modern houses. Those properties within the designation boundary, Grove House aside, comprise 1920s detached suburban houses, two storey and set behind small front gardens and driveways.
6. No 6 The Grove is one such house. This property occupies a spacious plot fronting the turning circle, within the conservation area but adjacent the flatted blocks of Badger Court and Badger Lodge which fall outside of the designation. The submitted Heritage Statement opines that No 6 is not a particularly fine example of its building age or type. Nonetheless, I consider the dwelling to be attractive, despite the neglected appearance; its scale and architecture are in keeping with the other interwar housing in the street. The property contributes positively to the character and appearance of the conservation area.
7. The proposal is to demolish No 6 and construct a scheme of 9 flats set over 3 floors, with the upper storey in the roof space. The footprint of the new building would be substantially larger than the existing dwelling. The appellant argues that this would be acceptable on the basis that the main bulk would be stepped back from the turning circle to follow the access road which serves the parking areas associated with Badgers Court and Badgers Lodge. However, the development would be prominent at the end of the cul-de-sac, its visibility increased by the removal of trees and vegetation on the western site boundary. The proposed layout provides no meaningful space for replacement planting to mitigate the adverse visual impacts of such a large and incongruous building.
8. I note that there have been some attempts to articulate the bulk of the building and present a traditional façade onto the street. However, the overall building composition, with its multitude of dormers and complex roof forms, would be fussy and contrived. Its cumulative height and mass would have more in common with the adjoining blocks of flats – both negative components in the setting of the conservation area – than the domestic scale housing which characterises this part of the conservation area. Referencing development forms outside of the conservation area in this manner is not an appropriate means of securing a development which protects the significance of the heritage asset.
9. The development would be provided with a basement car park accessed by means of a ramp. Underground parking is not a feature of The Grove, with other plots reliant on surface driveways. The ramp with its retaining walls on either side would be conspicuous at the front of the building. Its engineered appearance would make it an alien feature in the street scene. This would add to the harm arising from the excessive scale and poor design.
10. Accordingly, I conclude that the proposal would fail to preserve or enhance the character or appearance of the Church Street Conservation Area. There would be conflict with Policy CS5 of the Core Strategy (2007) and Policies DM5, DM8,

DM9 and DM10 of the Development Management Policies Document (2015) (DMPD) insofar as these seek to protect heritage assets and secure high quality design which respects local character and makes adequate provision for new landscaping.

*Living conditions of occupants of 7 The Grove*

11. No 6 The Grove is set back into its plot and its entire side elevation sits alongside the rear garden to 7 The Grove. The dwelling is prominent from the neighbours' garden but it is not overbearing. The modest scale, hipped roof and position set off the boundary combine to lessen the visual impact.
12. The southern flank of the proposed development would align with the existing dwelling at first floor level. However, the replacement building would be taller with higher eaves. It would also be considerably deeper, extending to the front of the site, roughly in line with the façade of No 7. This forward section would be closer to the side plot boundary; the building would be staggered away from the boundary towards the rear of the site, thus helping to maintain daylight to the neighbouring property. However, the scale and mass of built form would be substantially greater in comparison with the current dwelling. The additional bulk would make the building unduly dominant for the occupiers of No 7; the structure would be oppressive and it would impinge on the neighbours' outlook.
13. An existing wall on the boundary would restrict views into the garden of No 7 from ground floor windows in Flats 1 and 2. The upper storey windows in the southern elevation would be obscurely glazed with restricted opening and a condition could be imposed to secure a privacy screen for the side of the first floor balcony for Flat 5. There would still be some potential for overlooking of No 7's garden. However, these views would be oblique and they would only affect that part of the garden which is furthest from the house. Given that this area is already heavily overlooked by windows in Grove House, I do not consider that the proposal would have an unacceptable impact on privacy.
14. Notwithstanding this, I conclude that the excessive scale of the appeal scheme would have an unacceptable adverse impact on the outlook of occupants of 7 The Grove, contrary to the requirement of DMPD Policy DM10 that development proposals should have regard to the amenities of neighbours.

*Quality of internal accommodation*

15. DMPD Policy DM12 relating to housing standards states that new housing development must comply with the Nationally Described Space Standard (NDSS) technical requirements. Amongst other things, these set out minimum Gross Internal Areas for dwellings of different types, together with minimum sizes for bedrooms.
16. The Design and Access Statement describes the constituent parts of the proposed development. It would comprise seven 2 bed 4 person flats and two 3 bed 6 person flats. All of the units would meet the minimum standard for Gross Internal Area. However, four of the flats would contain bedrooms which fall short of the 11.5 m<sup>2</sup> minimum size required for double (or twin) bedrooms. The appellant does not dispute this but argues that compliance could be achieved by minor alterations to the internal layout of the units. However, no floor plans have been provided to demonstrate this. Based on the plans before me, the NDSS technical requirements would not be met.

17. To conclude, the scheme is satisfactory in terms of overall unit size and the provision of external amenity space. Nevertheless, the scheme conflicts with DMPD Policy DM12 in respect of bedroom sizes.

#### *Car parking*

18. DMPD Policy DM37 requires proposals to demonstrate that they provide an appropriate level of off street parking to avoid an unacceptable impact on the on-street parking conditions and local traffic conditions. The policy links to relevant standards set out in the Parking Standards for Residential Development Supplementary Planning Document (2015) (SPD).
19. Applying the SPD methodology, the proposal would give rise to a requirement for 10 parking spaces. The scheme would provide a total of 11 spaces and the Council considers this to be overprovision. However, the standards are couched as minimums and therefore the proposal does not in itself give rise to conflict with Policy DM37. There is no substantive evidence to demonstrate that the provision of one additional space over and above the minimum requirement would have an unacceptable impact on local on-street parking or traffic conditions. The lack of objection from the Highway Authority supports this.
20. The parking for the flats (10 spaces) would be located within the basement where non-residents may be reluctant to venture. The additional surface space in front of the building can be justified on the basis that it would serve as casual visitor parking. Consequently, I am content that the level of parking provision should not weigh against the scheme.

#### **Planning Balance and Conclusion**

21. The Council concedes that it is unable to demonstrate a 5 year supply of deliverable housing sites in line with paragraph 73 of the National Planning Policy Framework (the Framework). In such circumstances, Framework paragraph 11(d) indicates that permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) 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. Framework Footnote 6 confirms that policies relating to designated heritage assets are relevant to the first limb of paragraph 11(d).
22. Paragraph 196 of the Framework explains that where, as in this case, a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal for 9 new homes near to services and facilities within Epsom town centre would help to address the Council's housing shortfall and it would also generate employment during the construction phase. Against these public benefits I must balance the harm to the character and appearance of the Church Street Conservation Area. Framework paragraph 193 states that great weight should be given to the asset's conservation, irrespective of the scale of the impact. Any harm to, or loss of, the significance of a designated heritage asset requires clear and convincing justification.

23. The Council has already approved a scheme of 5 flats on the site from the extension and conversion of the existing dwelling. This permission<sup>1</sup> is still extant and constitutes a fallback position. The approved scheme would provide four 2 bedroom flats and one 1 bedroom flat. This mix does not accord with the requirement in DMPD Policy DM22 that residential schemes of 4 or more units should be comprised of a minimum of 25% 3 bedroom, or more, units. However, I note that the policy allows exceptions in certain circumstances. It is not clear what those circumstances were, but the Council exercised its discretion in approving the scheme.
24. I must consider whether an alternative proposal delivering 3 bed units and an additional 4 dwellings in total would justify the harm to the conservation area. In my view it would not. The public benefits of the appeal scheme do not outweigh the harm and therefore the balance tips against the proposal. The adverse impacts on heritage assets provide a clear reason for refusing the development and as such the proposal does not benefit from the presumption in favour of sustainable development. The second limb of Framework paragraph 11(d) is not engaged.
25. Drawing the threads together, the proposal conflicts with the development plan as a whole due to its impact on designated heritage assets and the living conditions of neighbouring residents, and the quality of living accommodation provided. I have given significant weight to the scale of the Council's housing shortfall and its Housing Delivery Action Plan but have nevertheless concluded that there are no material considerations which would justify a decision otherwise than in accordance with the development plan.
26. I have taken account of all other arguments raised in favour of the scheme, including the location of the site within the urban area, density considerations and the policy imperative to make efficient use of land. I have also had regard to the concerns regarding backland development, housing mix, noise and disturbance from intensification of residential use and the potential impacts on trees and biodiversity interests. However, based on the information before me these matters do not constitute reasons to dismiss the appeal.
27. For the reasons set out above, I conclude that the appeal should fail.

*Robert Parker*

INSPECTOR

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<sup>1</sup> Council Ref 18/00647/FUL