
Appeal Decision

Site visit made on 19 January 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2021

Appeal Ref: APP/Y3615/W/20/3257839

Buren, Surrey Gardens, Effingham Junction, Leatherhead KT24 5HF

- 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 D Fernie of Bryden Homes Limited against the decision of Guildford Borough Council.
 - The application Ref 19/P/02222, dated 20 December 2019, was refused by notice dated 9 July 2020.
 - The development proposed is erection of one 3 bedroom house and detached car port and workshop.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For reasons of clarity and precision, I have taken the description of development from the Council's Decision Notice.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposal upon the character and appearance of the area;
 - The effect of the proposal upon the living conditions of nearby residents, in particular the effects of overlooking, loss of privacy, overbearing and overshadowing on Buren and Croftdown; and
 - The effect of the proposal upon protected species, in particular bats.

Reasons

Character and appearance

4. Policy G5 of the Guildford Borough Local Plan 2003 (GBLP) requires new development to respect established street patterns, plot sizes, building lines, topography, roof treatments and relationship with other buildings. New buildings should also respect the scale, height and proportions and materials of the environment. Policy D1 of the 2019 Local Plan (LP) requires all new developments to achieve high quality design, to reflect the distinct local character of the area and to respond and to reinforce, locally distinct patterns of development. Policy EH-H8(c) of the East Horsley Neighbourhood Plan (EHNP) identifies that for infill development, the size and mass of new residential development should be no greater than surrounding properties.

5. The appeal site forms part of the rear garden of Buren and is accessed via a shared lane. The surrounding area is predominantly residential in character, with Surrey Gardens comprising a long cul-de-sac. Surrounding dwellings, whilst being of a variety of styles and design, are generally large properties, set within generous plots. The majority of dwellings face onto Surrey Gardens, however there are a number of instances where development has taken place to the rear of existing dwellings, in particular around the appeal site. Despite this, due to the nature of the development, the surrounding character is essentially semi-rural.
6. The proposed development would introduce a new detached dwelling into the rear garden of Buren, with pedestrian and vehicular access via the existing shared lane. To accommodate the proposed development, the plot would be sub-divided, providing a separate garden area for both the existing dwelling and the proposed new property.
7. The proposed dwelling would sit within its own plot, the size of which, whilst being smaller than those of the original dwellings in the area, would be comparable to the more recent infill development that has taken place. The plot size of the host dwelling, whilst being considerably reduced from its existing size, would remain of a size that would also be in keeping with those around it.
8. The footprint of the proposed dwelling would be generally similar to those of the surrounding properties and, whilst the proposed dwelling would extend across the majority of the width of the plot, this would not be uncharacteristic. The layout, siting and design of the proposed dwelling would ensure that the proposal respects the overall grain of surrounding development and would therefore, not represent a cramped or overly contrived form of development.
9. For the above reasons, I therefore conclude that the proposed development would not harm the character and appearance of the area, and in this respect, accords with Policy G5 of GBLP, Policy D1 of the LP, Policy EH-H8(c) of the EHNP and Paragraph 127 of the National Planning Policy Framework (the Framework).

Living conditions

10. In terms of the impact upon the host property, the proposed dwelling would be orientated in such away as to ensure that any views towards the property are at an angle, thereby minimising any direct overlooking. Furthermore, the only window proposed in the side elevation is on the ground floor and would be screened from view by existing and proposed boundary treatment.
11. The appeal site lies to the north of Buren and, as a consequence, is unlikely to have a significant overshadowing effect upon the garden area. Moreover, the orientation of Buren is such that the proposal would not have an overbearing effect upon the resulting garden area.
12. Croftdown is a large detached dwelling, set within a substantial plot. Due to the position of the proposed dwelling and the size of the garden of Croftdown, the new dwelling would be in excess of 40m away from this property. This distance would be sufficient to ensure that there would be no direct overlooking of the dwelling.

13. The proposed dwelling would lie to the south of Croftdown and would be located in close proximity to the shared boundary. Due to its location and height, the proposed dwelling would be a prominent form of development that would be visible from within the garden of Croftdown. Furthermore, the side elevation would include a bedroom window that would face directly onto the rear garden of Croftdown. As a result, part of the garden of Croftdown, would be directly overlooked from the proposed dwelling. Moreover, due to the position, size and bulk of the proposed building, it would have an overbearing and overshadowing effect upon part of the rear garden of Croftdown.
14. I note that the garden area of Croftdown is substantial and these effects would only impact on part of the garden. However, given the overall size, scale and mass of the proposed dwelling, I consider that the impacts would be so great as to harm the living conditions of the residents of Croftdown.
15. For the above reasons, I therefore conclude that the proposed development would have an adverse effect upon the living conditions of surrounding residents, in particular those of Croftdown and, in this respect, would be contrary to Policy G1(3) of GBLP and Paragraph 127 of the Framework. These policies, amongst other things, seek to ensure that development respects the living conditions of surrounding residents.

Biodiversity

16. The supporting assessment confirms that the majority of buildings are of negligible potential for bats. However, it highlights two buildings, which have potential to support bats, although this is identified as being low. The report recommends further survey work to confirm their absence. No evidence has been provided to show the conclusions of these additional surveys.
17. Therefore, notwithstanding the low potential of the buildings to support bats, taking a precautionary approach, without this additional survey work, I am unable to conclude that the proposed development would not result in an adverse impact upon protected species.
18. For these reasons, I therefore conclude that the proposed development would have an adverse effect upon protected species and, in this respect, is contrary to Policy NE4 of the GBLP and the Framework.

Other Matters

19. The site is located within close proximity of the Thames Basin Heath Special Protection Area (SPA). Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. Thus, given my overall conclusion on the main issues it is not necessary for me to consider this matter in any further detail.
20. I note the Council raise no issues in relation to access, parking or flooding, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.

Conclusion

21. Although I have found no harm in terms of the impact of the proposal upon the character and appearance of the area, this would be outweighed by the harm from the other main issues. Therefore, for the above reasons and having considered all matters, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR