

Appeal Decision

Site visit made on 29 October 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2021

Appeal Ref: APP/P3610/W/20/3264154

22-24 Dorking Road, Epsom, Surrey KT18 7LX

- 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 S Chowdhary, Dorking Road Developments Ltd against the decision of Epsom & Ewell Borough Council.
 - The application, Ref. 19/01365/FUL, dated 15 October 2019, was refused by notice dated 5 October 2020.
 - The development proposed is demolition of the existing houses and erection of a part two, part three storey building with rooms in the roof and basement providing 20 flats. Basement parking for cars and cycles. Bin stores and associated hard and soft landscaping including new boundary walls and railings.
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Application for Costs

1. An application for an award of costs was made by Mr S Chowdhary, Dorking Road Developments, against Epsom & Ewell Borough Council. This is the subject of a separate Decision.

Decision

2. The appeal is dismissed.

Procedural Matters

3. Following discussions with officers, an amended scheme to overcome some aspects of the Council's concern was submitted on 6 May 2020. I have made my decision on the amended proposals.
 4. The appeal application was refused by Notice dated 5 October 2020 pursuant to the decision by the Council's Planning Committee at its 'virtual meeting' of 3 September 2020. The decision was against the recommendation of officers.
 5. The appeal development was further considered by the Planning Committee on 14 January 2021 at which Members accepted the recommendation of officers to add an additional matter for consideration in this appeal, namely the effect of the proposed development on the settings of nearby designated heritage assets, including the Grade II* Hylands and Hylands House opposite the site on the other side of Dorking Road.
 6. A signed and executed Section 106 Unilateral Undertaking was submitted on behalf of the appellant on 28 October 2021. In the event of a permission being granted in this appeal, this Undertaking commits the appellant to submit a revised Viability Statement to factor in the build period and pay a commuted
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sum in lieu of any on-site provision of affordable housing units. As the original intention was for an Agreement under s106, I considered it appropriate to invite the Council's comments on the Undertaking. I comment further on this matter in paragraph 35 below.

Main Issues

7. The main issues are: (i) the effect of the development on the character and appearance of the area; (ii) the adequacy of the proposed parking provision in terms of its effect on the amenities of surrounding residential occupiers, and (iii) the effect of the proposal on the setting of nearby designated heritage assets.

Reasons

Character and Appearance

8. The appeal site is located 800 metres southwest of Epsom town centre on the northwest side of the A24, a main distributor road between Epsom and Junction 9 of the M25 at Leatherhead and onwards to Dorking, about 10 miles to the south. This area forms part of the extensive Character Area 35 of the Council's Environmental Character Study published in 2008 ('the ECS') and I note that the general description of this area in the ECS refers to '*a busy character – both in terms of activity but also in terms of mixed visual characteristics.*'
9. However, whilst examples of this busy character near the site are the traffic on adjoining A24 and the very large building of the Epsom General Hospital on the opposite side of the road with its comings and goings, it is more the site's specific location within Character Area 35 and the adjacent Sub-Area 35A that informs and affects the scope for the proposed development. The Council's appeal statement refers to the ECS description of the latter as '*an area of detached and occasionally semi-detached properties*' with the built form '*marked by its close spacing and a distinctive Tudor styling to elevations and gable ends*'. The appeal site itself is part of the linear development along the northern side of Dorking Road, comprising detached inter-war houses with deep regular plots and a design consistent with the architectural vogue of this period.
10. Taking the more uniform character and locally distinctive appearance of these adjoining areas into account, together with other observations from my visit to the site and its surroundings, I formed the view that this well-established suburban area of inter-war dwellings along this side of Dorking Road and north-westwards along White Horse Drive has the effect of imposing significant constraints on the redevelopment of the appeal site. These include the need to respect the context of the domestic scale and ensure that the design and external materials result in a development that, if not entirely in keeping with the neighbouring houses, at least harmonises with them. And because the site is on a corner, the prominence of any development would be significantly increased, with a requirement for two principal elevations to be read comfortably with adjoining and nearby buildings.
11. Section 3: 'Design Development' of the Design and Access Statement ('the D & A') forming part of the application is ostensibly reassuring in recognising that such constraints are a fundamental issue at the heart of the proposal. Indeed,

the 'Design Response' includes a bullet point which asserts that *'the amount and mix of development proposed is appropriate to the size and location of the site, and is very much a design-led response to the specific issues presented by this site'*. However, in Section 2 of the D & A which is entitled 'Constraints and Opportunities', only the Opportunities are listed with any reference to the constraints confined to an OS based plan highlighting the listed buildings on the opposite side of the road.

12. Leaving aside the effect of the proposal on the setting of nearby heritage assets which is the third main issue in this appeal, under the heading 'Visual Impact', the officers' report on the application refers to Government policy in the National Planning Policy Framework 2019 ('the Framework', since revised in 2021) that planning decisions should ensure development is sympathetic to local character, including the surrounding built environment and landscape setting.
13. Reference is also made in the report to paragraph 3.7.5 of the Epsom & Ewell Core Strategy 2007 which states that new development should enhance and complement local character and be capable of integrating well into existing neighbourhoods. Policies DM9 & DM10 of the Development Management Policies Document 2015 ('the DMPD') are referred to as having similar objectives.
14. However, in my judgement the development would fail to respond appropriately to the constraints of its immediate setting within the more diverse Character Area 35 as a whole and the associated policy constraints referred to above. The result would be a scheme that would draw the eye as a building far too large for its site and overtly incongruous for its suburban setting. The proposed building would comprise a jarring and discordant addition to both the character and appearance of these sections of the Dorking Road and White Horse Drive street scenes. The harmful effect would be particularly noticeable because of the rise in existing land levels along Dorking Road towards White Horse Drive and the open aspect of its corner position, especially as seen in the approach along the A24 from Dorking towards Epsom town centre in which both the main frontages would be seen. The appellant's Computer Graphic Images clearly demonstrate how the proposed building would unduly dominate this element and aspect of the townscape.
15. More specifically, harm would be caused by the development's significant height and its disparity with adjoining buildings, in particular the chalet bungalows of Nos. 2A and 1 White Horse Drive on the northern flank of the site and the opposite side of the Drive respectively. As regards the former, I acknowledge the building height would be lower near to this boundary in an attempt to reduce the disparity to a more acceptable extent.
16. However this point notwithstanding, the proposed building would reduce the existing gap of substantial built form to No. 2A. It would be perceived in terms of the street scene as being unduly large and bulky compared to its neighbours. And with the development's corner position, the massing would be especially evident, although again I acknowledge that the scheme is designed with an element of set-down, this time towards the east where it would adjoin No. 20. I do not however agree with the appellant that articulation in the form

of bays and varying heights would be successful in alleviating the adverse impact of the very substantial massing in the street scene.

17. Conversely, I endorse the views expressed in the Council's appeal statement that the external materials and design detailing are wholly at odds with surrounding 1930s residential vernacular. This aforementioned bulk and dominance of the junction of the two roads would give a particular emphasis to this clash of design style and character in close up views of the Dorking Road street scene and from some distance in the approaches from the east and west, especially the latter.
18. In White Horse Drive, an important detail is that the basement parking and its heavily engineered access would be an alien feature in the street scene. And the effect of the ramp combined with the building's site coverage would give the development an unduly urban character and leave only peripheral space for landscaping in the White Horse Drive street scene. The front access from Dorking Road would have the refuse stores to either side. And with their position well forward of the building line, they are likely to be a prominent feature out of character with the frontages of the houses to the east as far as the much larger building of Lord Rosebery Lodge.
19. My more general criticisms of the proposed development are essentially related to its unsuitability for its distinctive period-dwelling suburban context rather than an absence of design merit per se. The 20 flats scheme may well be acceptable as regards scale and design for a site in Epsom town centre or other more urban locations in the Borough and perhaps even Character Area 35. And whilst I accept development with significant differences in scale and design from its surroundings can sometimes be successful, these are normally to be found on potential landmark sites where they can signify a substantial change in the development pattern / character, or perhaps an important junction in the road network. However, Nos. 22-24 Dorking Road is manifestly not such a site and this is fundamental to my consideration of this aspect of the proposal.
20. On this issue, I conclude that the appeal scheme would have an unacceptable effect on the character and appearance of the area. This would be in harmful conflict with the requirement in Policy CS5 of the Epsom Core Strategy for development to reinforce local distinctiveness and complement the attractive characteristics of the Borough. There would additionally be conflict with DMPD Policies DM9 & DM10; the townscape objective of Policy DM11, and Section 12: 'Achieving Well-Designed Places' of the Framework.

Adequacy of parking

21. The appeal scheme would provide 15 spaces in the form of basement parking, whereas under the Council's residential parking standards adopted in 2015 the minimum provision on the site for the proposed flats would be 23. The appellant's Transport and Highways Statement argues that a review of the census data for the Woodcote Ward (which includes the appeal site) indicates that from surveys of car ownership of existing residents of flats, the likely level of unrestrained car ownership for the development would require only 14 spaces. Accordingly, it is concluded that the actual demand for spaces is likely to be met by on-site provision, meaning that *'there would be little likelihood of overspill parking taking place on the local road network'*.

22. However, I have reservations as to the applicability of this data, as the individual accessibility of specific site locations to alternative transport modes can strongly influence parking demand by residents. Moreover, there are many existing residents' comments on the appeal application to the effect that because of the competing demands of residents, hospital visitors and parents taking and collecting children at the local schools, this is an area of severe parking stress. Certainly, this was an impression I formed at my visit, having tried and failed for more than 20 minutes to find even one parking space within about 400 metres of the site. However, I acknowledge that this one-off observation should carry only limited weight in this appeal.
23. Nonetheless, in the circumstances of parking stress as identified by the Council and residents, and despite the acceptance of the proposed under-provision in the development by the Highway Authority, it would in my view be counter - intuitive and contrary to common sense to approve a development with as many as eight spaces below the adopted standard in a location which is not immediately accessible to day to day facilities.
24. It is just possible that the parking difficulties in the area would be so readily apparent to prospective occupiers of any flat without an allocated space that they would be unlikely to take up residence if they were a regular car user. This 'self-regulation' if it occurs may well address some of the potential problem, but it would be unlikely if there were to be no increase in demand for on-street spaces. Certainly, it would not resolve the issue of a complete absence of any visitor or delivery /service parking for all 20 flats in the development, with the adverse consequences for amenity and safety.
25. I can therefore see no evidence that the appellant has robustly demonstrated that the parking provision would be adequate. Accordingly, I conclude that the proposal would fail to comply with Policy DM37 of the DMPD and exacerbate the existing harm to the amenities of surrounding occupiers in terms of the streetscene and the availability of on-street parking. As a result, the development would also fail to comply with the last two requirements of Core Strategy Policy CS16 and paragraph 104e) of the Framework.

Effect on Setting of Heritage Assets

26. As explained in paragraph 5 above, this was an additional refusal reason introduced by officers at the Planning Committee meeting of 14 January 2021. The appellant has complained in this regard but irrespective of whether or not this was procedurally reasonable (as assessed in my Costs Decision), the effect of the proposed development on the setting of designated heritage assets is a matter which I have a statutory duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to address in this appeal.
27. The Council's main concern is the effect of the development on the setting of a group of listed buildings along the frontage of Dorking Road opposite the site and continuing further along the road in both directions. At present, the individual and collective appearance of these buildings as described in the appeal evidence is complemented by, or at the least not in disharmony with, the inter-war Arts and Craft style suburban housing.
28. The appellant's evidence acknowledges that the Grade II White Horse Public House (now renamed 'Lava Lounge'), the Grade II cottages at Nos. 67-69

Dorking Road, and the Grade II* Highlands, including its boundary treatment, would experience a '*visual conjunction*' with the proposed development. Because I have already concluded that the proposed block of flats would comprise '*a jarring and discordant addition to both the character and appearance of this part of the Dorking Road street scene*' it inevitably follows that there would be a harmful alteration in the setting of these listed buildings. This in turn, would have an adverse effect on their significance as heritage assets and be contrary to Policy DM9 of the DMPD and to Government policy in Section 16 of the Framework. The setting of the Grade II Tamerisk Cottage in White Horse Drive would also be affected, but indirectly with less harm caused.

29. The harm to the settings of the heritage assets would be '*less than substantial*' as referred to in Section 16: 'Conserving and Enhancing the Historic Environment' of the Framework, but would nonetheless materially add to the harm caused in respect of the first main issue. In my view, this additional harm would not be outweighed by the public benefit of the additional dwellings on the appeal site and their contribution to the Borough's housing stock.

Other Matters

Housing Need including Affordable Housing

30. The original officers' report on the application recommending its approval explains that because the Council is unable to demonstrate a five-year supply of deliverable housing sites, the so called '*tilted planning balance*' in paragraph 11d) and footnote 8 of the Framework is engaged. As applied to this case and in summary, Government policy in these circumstances is that there should be a presumption in favour of a grant of planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development.
31. The net gain of 18 dwellings on the site plus the financial contribution towards off-site affordable housing committed to by the appellant under the section 106 Unilateral Undertaking are clearly capable of achieving substantial social benefits. I have given this careful consideration, as because of previous poor delivery levels against targets there is a particularly pressing need for more housing in the Borough.
32. However, in my view the adverse impacts that would arise from the three main issues in this case are in unacceptably harmful conflict with the policies of the Framework taken as a whole and with similar development plan policies cited in the Notice of Refusal. In essence this means that in the case of this appeal, the weight given to the provision of additional dwellings on the site should not be at the expense of a development of a high standard of design and a scale appropriate to its context.

Effect on Living Conditions for Occupiers of Neighbouring Dwellings

33. The Council's Notice of Refusal includes an assertion to the effect that the excessive amount of built form on the appeal site would lead to an overbearing relationship with adjacent properties. These are identified in the evidence as Nos. 20 Dorking Road and 2A White Horse Drive. I have had regard to the appellant's comments but am satisfied that because of the combination of the proposed building's siting, scale and bulk and in the case of No. 20 the land

level, there would be harm caused to the outlook from habitable rooms / gardens of these dwellings. This would be contrary to DMPD Policy DM10(ix) and paragraph 130f) of the Framework. There are also other potential effects on these dwellings and on No. 1 White Horse Drive raised by the occupiers and reflected by the Council in its appeal statement, but it is the effect on outlook referred to in the Decision Notice which I consider to be of primary concern.

Matters raised by Local Residents

34. Public consultation on the appeal application resulted in approximately three dozen representations from local residents, all but one being objections. I have read these third party comments and taken them into account in reaching my decision. Apart from an increase in traffic that would add to congestion caused by the local school, the objections for the most part reflect the two refusal reasons decided at the meeting of the Planning Committee on 3 September 2020.

Unilateral Undertaking

35. Pursuant to paragraph 6 above, I have received the Council's comments on the Undertaking. In the event that I had decided to allow the appeal I would have deferred my Decision to enable an implementation of the procedures and amendments suggested by the Council.

Conclusion

36. For the reasons explained above and having had regard to all other matters raised the appeal is dismissed.

Martin Andrews

INSPECTOR