



Appeal Decision

Site visit made on 11 January 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/L3625/W/21/3277481

35A The Avenue, Tadworth, KT20 5DG

- 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 under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr William Morris against Reigate and Banstead Borough Council.
- The application Ref 21/00467/S73 is dated 24 February 2021.
- The application sought planning permission for: Erection of one 5 bed house on two floors with one en-suite bedroom within the roof space. The house is designed with an integrated double garage, without complying with conditions 1 and 2 attached to planning permission Ref 20/02383/S73, dated 8 January 2021.
- The conditions in dispute are Nos. 1 and 2 which state that:

"The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan Type	Reference Version	Date Received
Site plan	001.0101	23/03/2020
Block Plan as built	332.082	23/03/2020
Front survey	332.118	23/03/2020
Ground floor plan	001.021	17/06/2020
Elevation with landscaping	332.071 A	17/06/2020
Elevations	332.072 A	17/06/2020
Landscape Plan	332.0103 A	17/06/2020
Landscape Plan	L1108-2.1 A1	17/06/2020"; and

"By 30th July 2021, the roof of the dwelling shall be stripped of the existing slate tiles and recovered in the approved Redland Rosemary Clay Classic- Blue Brindle and the dwelling shall be permanently maintained as such thereafter."

- The reasons given for the conditions are:
"To define the permission and ensure the development is carried out in accord with the approved plans and in accordance with National Planning Practice Guidance."; and "To ensure that a satisfactory external appearance is achieved of the development with regard to Reigate and Banstead Development Management Plan 2019 policy DES1."

Decision

1. The appeal is allowed and planning permission is granted for the erection of one 5 bed house on two floors with one en-suite bedroom within the roof space. The house is designed with an integrated double garage, in accordance with Ref 21/00467/S73, dated 24 February 2021 without complying with conditions Nos 1 and 2 set out in planning permission Ref 20/02383/S73 granted on 8 January 2021 by the Council, but otherwise subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised Framework¹ was published by the Government between the determination of the planning application and the appeal coming before me. It does not raise any new considerations in relation to this appeal.

Background and Main Issue

3. Three new dwellings and a replacement of the existing dwelling were approved on appeal at 35 The Avenue in 2006. This current appeal relates to what was Plot 2 and is now known as 35A The Avenue. Plot 2 remained vacant until a new proposal for a 5 bed house was approved in 2017. As part of the 2017 approved drawings the dwelling was shown as having a slate roof. Condition 3 of this permission required samples of external materials to be submitted to and agreed with the Council. Such an application was made in 2017 but remains undetermined.
4. An application was submitted in 2019 to modify certain conditions and so authorise the building's as-built design and siting. This application was refused as the Council was concerned that the revised siting of the dwelling was out of keeping with the area and emphasised the slate roof, which was considered to be an alien feature, despite the previous permission. The revised layout was also said to reduce the landscaping to the front of the property. A subsequent appeal was dismissed although the Inspector noted that the permitted scheme did appear to allow for a slate roof.
5. A revised application was submitted which offered what was said by the appellant to be a compromise on landscaping and the driveway arrangements. A change of roofing materials to clay tiles was also proposed. This application was approved in July 2020. The conditions attached required these changes to be undertaken within 3 months of the date of the decision. A subsequent application was approved which extended that time period until 30 July 2021. However, prior to that date the appellant sought further changes to the schedule of conditions in order to allow for the retention of the slate tiles. That application was refused and the scheme is now before me.
6. It is clear from all the information submitted that conditions 1 and 2 of the most recent permission (20/02383/S73), which list the approved drawings and set out the requirement to replace the slate tiles, are in dispute. In seeking to retain the slate tiles and not replace them with clay tiles, the main issue is the effect of the slate tiles on the character and appearance of the area.

Reasons

7. The appeal site lies partially within a Residential Area of Special Character (RASC). The likely explanation for why only part of the site is covered is that when the boundary of the RASC was initially drawn up it was following the line of what was then the curtilage of 35 The Avenue. The supporting text to Policy DES3 of the Local Plan² notes that each RASC is unique and recognised for its own identity and character. However, each will generally include such factors as a low-density character with detached buildings set back from the road within spacious wide plots with mature landscaping and a general leafy

¹ National Planning Policy Framework (2021)

² Reigate and Banstead Local Plan Development Management Plan (2019)

- character. The policy itself seeks to ensure new development respects the character of the area.
8. In this particular case, properties adjacent to and outside of the RASC appear to be of a slightly higher density to those within it. Nevertheless, all properties in the area conform broadly to the characteristics of being detached buildings set back within well sized, landscaped plots. The area within the vicinity of the appeal site is therefore spacious and verdant.
 9. Buildings in the area generally have brick or render finishes and with one or two exceptions have clay roof tiles. However, either within the RASC or outside of it, it is clear that roof tiles in the area are not all uniform in their sizes or appearance. In addition, some have weathered more than others and so have become darker. Some, such as those on the houses opposite the appeal site in Bishop's Grove, some of which are within the RASC, have noticeable grey/black colouring mixed in them.
 10. As my colleague noted in the 2020 appeal decision, the appeal dwelling is a prominent and visible structure within the street scene, given its forward position within the site. Its rendered finish, which is not objected to by the Council, adds to the building's prominence as does the slate roof.
 11. However, when approaching the appeal site from Downs Way it is viewed against a backdrop of trees and rising land. In addition, as the houses on the other side of The Avenue are set back from the road, the dwelling is seen mainly in relation to 35 The Avenue and the building on the corner of The Avenue and Downs Way (50 and 52 The Avenue). As one approaches the appeal site, the roof of 37 The Avenue comes more into view. However, given the variation in roof tiles and colouring of these other properties, the slate roof of the appeal site, whilst clearly different, is not visually jarring.
 12. When approaching the appeal site from the higher position along The Avenue, the building is seen within a wider roofscape. Its forward position again adding to its prominence although this is tempered by being set at a lower level than many of the other buildings. It is also seen against a backdrop of distant trees. My site visit took place when the surrounding landscaping was probably at its barest. Whilst trees and boundary planting can be removed or die, given the prevailing character of the area, it is reasonable to assume that much of it would be retained and thus views of the building are likely to be reduced at other times of the year.
 13. Whilst the building is prominent, and the slate roof is different from most others in its immediate vicinity, I am satisfied that in this instance such a roof tile can be absorbed within the local setting without causing harm to the character and appearance of the area. Accordingly, I find that the proposal accords with Policies DES1 and DES3 of the Local Plan which, amongst other things, require new development, including the use of external materials, to respect the prevailing character of an area.

Other Matters

14. The Council notes that the 2017 permission was not lawfully implemented and therefore the details of that permission are no longer capable of being acted upon. On this basis it is said to have no bearing on the current matter. Whilst

the 2017 permission may no longer be capable of being implemented, it forms part of the site's planning history.

15. I acknowledge that the Local Plan was adopted in 2019 but as the supporting text to Policy DES3 notes, the RASC designation has been in place since 1989 and a subsequent review in 2017 considered the existing designations should continue. Thus, the designation clearly predated the redevelopment of the garden of 35 The Avenue. Accordingly, in terms of the appeal site's locational context there does not appear to have been any significant changes to it since the Council initially approved the use of a slate roof in 2017.
16. The 2021 Supplementary Planning Document³ does note that slate and slate coloured tiles are out of character with the RASC's generally but accepts that individual circumstances of each development will be taken into account when assessing proposals. For the reasons I have given above, I consider that the circumstances of this site are such that a slate roof can be accommodated without causing harm to the RASC and wider area.

Conditions

17. I shall amend condition 1 of the planning permission to reflect my decision and the updated list of approved drawings. Condition 2 is therefore deleted.
18. At the time of my site visit it appeared that some landscaping to the front of the site had relatively recently taken place. However, as I have not been provided with a copy of the approved landscaping plan, I cannot be sure that it has been fully implemented. Accordingly, it is necessary for me to reimpose condition 3 of 20/02383/S73 requiring the full implementation of the landscaping scheme.
19. Similarly, it appeared to me as though some works had been undertaken in relation to the access arrangements. Again, I have no information as to whether these works are in accordance with the approved details. As the original deadlines set out in conditions 4 and 5 of 20/02383/S73 have expired it is necessary for me to impose a new deadline to ensure the works, which would safeguard pedestrians or other road users, are fully implemented. Given the time that has elapsed since the appellant first committed to revising the access arrangements and that some works already appear to have been undertaken, it seems reasonable to me that, in reimposing the requirements of these conditions, I do so with a 3-month timescale for compliance.
20. Conditions 6 and 7 of 20/02383/S73 relate to on going requirements regarding fenestration and it is necessary for these to be reimposed to protect the privacy of neighbours and the character and appearance of the dwelling and area.

Conclusion

21. For the reasons given above, and subject to the conditions set out below, the appeal should be allowed.

Stewart Glassar

INSPECTOR

³ Local Character & Distinctiveness Design Guide Supplementary Planning Document (2021)

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Plan Type	Reference Version	Date Received
Site plan	001.0101	23/03/2020
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Front survey	332.118	23/03/2020
Ground floor plan	001.021	17/06/2020
Elevation with landscaping	332.071 A	17/06/2020
Elevations	332/0702/B	25/02/2021
Landscape Plan	332.0103 A	17/06/2020
Landscape Plan	L1108-2.1 A1	17/06/2020

2. The scheme of landscaping of the site hereby approved shall be completed in full accordance with the approved scheme within the first planting season following the grant of planning permission or in accordance with a programme agreed in writing with the local planning authority. Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or plants of the same size and species.
3. Within 3 months of the date of this permission, the northern access as shown on the plan numbered 332.0103 A, shall be provided with dropped kerbs for the width of the access.
4. Within 3 months of the date of this permission, the southern access shall be closed as shown on the plan numbered 332.0103 A, and any redundant access points in front of The Avenue site frontage shall be removed by reinstating any verge, footway and kerbing.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any Order revoking and re-enacting that Order with or without modification), no first floor windows, dormer windows or rooflights other than those expressly authorised by this permission shall be constructed.
6. The first floor windows in the northern and southern elevations of the development hereby permitted shall be glazed with obscured glass which shall be fixed shut, apart from a top hung opening fanlight whose cill height shall not be less than 1.7 metres above internal floor level and shall be maintained as such at all times. The rooflights in the flank elevations shall have their cill height not less than 1.7 metres above internal floor level, and shall be maintained as such at all times.

END