
Appeal Decision

Site visit made on 1 March 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Appeal Ref: APP/Q3630/W/21/3282252
92 Church Road, Addlestone KT15 1SG

- 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 Urban Drum Limited against the decision of Runnymede Borough Council.
 - The application Ref RU.21/0191, dated 28 January 2021, was refused by notice dated 1 April 2021.
 - The development proposed is construction of 3 no. three bedroom houses with integral garages, amenity space and landscaping, together with continuation of the existing vehicular access to the side of no. 92 Church Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a unilateral undertaking (UU) which contains planning obligations with regard to the Thames Basin Heath Special Protection Area (the SPA). This is to secure financial contributions towards Suitable Alternative Natural Green Space (SANGS) and Strategic Access Management and Monitoring (SAMM) measures as mitigation for any significant effects of the proposed development on the SPA from recreational disturbance. I return to this matter later in this decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - The character and appearance of the area; and
 - The living conditions of occupiers of adjacent properties and future occupiers of the proposed dwellings.

Reasons

Character and Appearance

4. The appeal site is a roughly rectangular plot located at the end of an access track which branches off from Church Road. The site contains a mature beech tree to its northeast corner which is covered by a Tree Preservation Order¹

¹ No.266

(TPO). This TPO also originally included 3 conifers that were felled as part of a separate consent². The beech tree is considered a healthy Category B specimen and is substantial in size. It is prominent in views from within the appeal site and the houses which adjoin. Despite its position close to an oak tree, it is also visible from Birchfield Close. Overall, it is an attractive specimen which makes a significant and positive contribution to the visual amenity and character of the area, forming part of a verdant backdrop to a densely populated urban area. This is recognised by its inclusion in the TPO 266.

5. The proposal to erect 3 dwellings would result in the loss of the beech tree. Although I have had regard to the Arboricultural Impact Assessment (Trevor Heaps Consultancy Ltd 3, February 2021), I disagree that the removal of the beech would improve the arboreal character of the oak tree nearby. Its proximity to the oak does not diminish its contribution to the area.
6. The proposal includes the planting of 5 trees to mitigate for the loss of the beech and the 3 conifers felled under the aforementioned consent. This results in a net increase of 1 tree. In the long term this would provide some mitigation for the loss of the beech. However, in the short to medium-term the loss of tree would harm the character and appearance of the site while reducing its contribution to the wider area, particularly from Birchfield Close.
7. Based on the above, the proposal would harm the character and appearance of the area due to the loss of the beech tree. This would be contrary to Policies EE1, EE9 and EE11 of the Runnymede 2030 Local Plan (LP) (adopted July 2020) which state, among other things, that all development proposals will be expected to achieve high quality and inclusive design which responds to the local context including the natural character of the area. The proposal would also be contrary to advice contained in the National Planning Policy Framework (the Framework), which states in paragraph 131 that trees make an important contribution to the character and quality of urban environments and that existing trees should be retained wherever possible.

Living Conditions of Occupiers of Existing Dwellings

8. The appeal site is bound on all sides by dwellings and was evidently part of the garden area of No.92 Church Road. My attention is drawn to the Runnymede Design Supplementary Planning Document (SPD) (July 2021) which advises that minimum garden lengths of 11m will normally be expected, which ensures a back-to-back separation distance of 22m. The average lengths of the gardens of the proposed dwellings are 10.9m, which the Council agree is acceptable albeit subject to further assessment. The SPD is silent with regards to other layouts and arrangements and any separation distance that should be maintained to ensure privacy.
9. The front elevations of the proposed dwellings each include a bedroom with an en-suite bathroom and would face the side elevation and rear garden of No.92. Although I acknowledge the concerns of the Council that the bedroom of Plot A would overlook the rear garden of 92, this would be from a minimum distance of 13.4m. Although the SPD advises a back-to-back distance of 22m, this would be measured from the rear of both dwellings. However, the distance from one rear elevation to the garden of the facing property would be much

² RU.16/0853

less than 22m. Moreover, views into the rear garden of 92 would be further obscured by the fence along the boundary.

10. There is a 2m distance between Plot A and its side boundary with No.106B Church Road, which would be side-by-side. In this arrangement, it would not be unusual for rear facing windows to have views into the neighbouring garden, as with terraced housing. Views would be at a more oblique angle and would be orientated to the rear. Moreover, the existing boundary of the appeal site and 106B includes a fence and mature trees and bushes which would further obscure views into the rear garden for occupiers of this property.
11. The garden depths of the proposed dwellings of 10.9m falls just below that advised by the SPD. However, the appellant states there is a 4m distance between the boundary and side elevation of No.23. Moreover, this elevation contains one window which it is argued does not serve a habitable room. Given its location this is likely the staircase landing and I agree this would not be sensitive to views from the rear elevations of the proposed dwellings. Moreover, the distance from the rear first floor windows proposed to the rear garden would be just under 11m, which is considered acceptable in a back-to-back arrangement. As with the other properties along the site boundary, views would be further obscured by the fence and mature foliage.
12. To conclude, I am satisfied there would not be harm to the living conditions of occupiers of adjacent properties with regards to a loss of privacy caused by overlooking from the proposed dwellings. This would be in accordance with Policy EE1 of the LP, which states development should ensure no adverse impact on the amenities of occupiers of the development proposed or to neighbouring property. The proposal would also be in accordance with the Framework, which seeks through paragraph 130 to maintain a high standard of amenity for existing and future users.

Living Conditions of Future Occupiers of Proposed Dwellings

13. Although there is reference to a tree referenced as 'T7' which would shade the rear gardens of the proposed dwellings, particularly Plot C, this appears to relate to the oak tree located outside of the appeal site in the garden of a property on Birchfield Close.
14. I am directed to the shading assessment carried out by the appellant which demonstrates the level of shade the proposed dwellings and their gardens would be subject to at 4 intervals on 21 March and 21 June. This would be caused by existing trees, including the adjoining oak, and those proposed as replacements which have been aged by 15 years.
15. The assessment demonstrates that on 21 March, the oak tree would cause little shading of the garden of Plot C, although the front elevation of this plot would be partly shaded by tree 2 in the morning. On the 21 June, shade would only be evident in the early to late morning hours due to the position of the tree. Much of the shading would be caused by the buildings themselves, although on the June date from 12 noon until the late afternoon the majority of the garden areas of the dwellings would be in sunlight. Although the Council casts some doubt on the findings of the shade assessment, these concerns are not substantiated. I see no reason to disagree with the findings presented to me which would adhere to guidance in the 'Site Layout Planning for Daylight and Sunlight' document.

16. As such, the proposal would provide suitable living conditions with regard to sunlight and would accord with Policy EE1 of the LP which states development should ensure no adverse impact on the amenities of occupiers of the development proposed or to neighbouring property. The proposal would also be in accordance with the Framework, which seeks through paragraph 130 to maintain a high standard of amenity for existing and future users.

Other Matters

17. The appeal site has been fenced off from No.92 and from my observations on the site visit is now a distinctly separate plot. Although this has reduced the size of the remaining garden area for 92, I have little substantive information on this matter before me, in particular as to whether the remaining garden size would harm the living conditions of occupiers of this property. Moreover, this is outside of the appeal site and as such, I have not considered this further.
18. Similarly, while the Council has concern that the removal of the beech tree would harm biodiversity, I have nothing before me to substantiate this other than the removal of the tree itself. Given that I am dismissing the appeal for other reasons, I have not considered this matter further.
19. The SPA is designated for its internationally important habitat which supports breeding populations of three rare species of bird; Nightjar, Woodlark and Dartford Warbler. The conservation objectives for the SPA are, in summary, to ensure that the integrity of the site is maintained or restored in order to protect the habitat and the birds that depend on it. The birds are vulnerable to disturbance from recreational activities.
20. However, as I have found the proposed development to be unacceptable for another reason, there is no need for me to consider the implications of the development on the integrity of the SPA or the provisions of the Conservation and Habitats and Species Regulations 2017 (as amended), notwithstanding the appellant's updated UU.

Planning Balance

21. The LP makes a provision for 7507 net additional dwellings over the plan period (2015-2030). The appellant contends that this required an annual delivery of 500 dwellings to be supplied per year, which has since increased to 624 in the 2019-2020 publication of the Annual Monitoring Report. However, the Council states that it can currently demonstrate a 5-year housing land supply. The appellant advises this is 6.18 years, although the deliverability of this number of units is doubted due to previous shortfalls. However, I have no substantive reason to doubt that the Council can demonstrate a 5-year housing land supply.
22. Nevertheless, even if I agreed with the appellant's position in this regard, and the application of paragraph 11(d) of the Framework was necessary, consideration would still have to be had to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. The Government's objective is to significantly boost the supply of housing. The proposal would provide 3 new dwellings on a windfall site to the Council's existing stock and bring forth the associated socio-economic benefits, including those to local services and facilities. The site has functioned until recently as a

garden for No.92 Church Road and as such I disagree that it has been 'underutilised'. Nevertheless, the provision of additional housing does attract positive weight in favour of the proposal.

24. Conversely, I afford significant weight to the preservation of the beech tree, which makes a positive contribution to the character and appearance of the area. This loss of the tree, despite replacement planting which would take substantial time to mature, weighs substantially against the proposal.
25. The appellant has also raised that the proposal would not harm highway safety and is in a suitable location with regards to access to services and facilities. From the evidence before me, it is not the backland location per se that is disputed, particularly given the examples I have been made aware of approved elsewhere by the Council. Rather it is the site-specific circumstances, and the existence of other backland development in the Council area does not mean any and all development of this type is acceptable. Each proposal is assessed on its own merits. Furthermore, the Council has not objected to the proposal in terms of its design insofar as it relates to the character of the area and the appearance of the houses themselves. These matters are not disputed, although a lack of harm would be neutral in the planning balance rather than weighing in favour.
26. Therefore, on balance, taking into account all these matters, the adverse impacts of the development would significantly outweigh the benefits when assessed against the policies in the LP and the aims of the Framework.

Conclusion

27. The proposal would harm the character and appearance of the area due to the loss of a healthy, mature beech tree subject to a TPO. As such it would conflict with the development plan taken as a whole, despite adherence to other policies. Although I have considered the benefits of the proposal, there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR