

Appeal Decision

Site visit made on 15 March 2022

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

an Inspector appointed by the Secretary of State

Decision date: 20TH April 2022

Appeal Ref: APP/P3610/W/21/3285298

29 & 31 Waterloo Road, Epsom, Surrey KT19 8EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Oakton Developments Ltd against the decision of Epsom & Ewell Borough Council.
 - The application, Ref. 21/00903/OUT, dated 26 May 2021 was refused by notice dated 15 October 2021.
 - The development proposed is the erection of 2 x 3 bedroom flats, 4 x 2 bedroom flats and 2 x 1 bedroom flats and associated external works following demolition of the existing building (landscaping reserved).
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 2 x 3 bedroom flats, 4 x 2 bedroom flats and 2 x 1 bedroom flats and associated external works following demolition of the existing building at 29 & 31 Waterloo Road, Epsom in accordance with the terms of the application, Ref. 21/00903/OUT, dated 26 May 2021 and subject to the conditions in the attached Schedule.

Main Issues

2. The main issues are (i) the effect of the proposed development on the character and appearance of the area, and (ii) the adequacy of the accommodation in terms of the living conditions for future occupiers as regards outlook, light and private amenity space.

Reasons

3. On the first issue, the officer's report argues that the proposed building's footprint would be larger than that of the existing buildings and would thereby result in a development of a scale and mass that would be bulky, dominant, 'crammed' and too big for its plot. However, the grounds of appeal state that at 212 sqm the proposed footprint would be only 18sqm larger than the existing.
 4. In this context, I saw on my visit that the appeal site is at the southern end of a larger triangle of land on the north west side of the busy Waterloo Road and which extends up to the footpath and service road opposite the junction with Chase Road. Within this area the existing building lines to the pavements and paths are for the most part nil or minimal. And where there is an absence of built form to the rear of Nos. 29 to 35, the curtilage land as seen from the
-

rearward public footpath appears as an unsightly hotchpotch of flat roof extensions and domestic paraphernalia.

5. This suggests that any redevelopment of the site should be tight to its boundaries which a smaller footprint would not achieve. Furthermore, in the approach along Waterloo Road from the town centre, because of the bend in the road this end of the existing terrace of buildings is effectively a focal point that draws the eye. And rather than the bland and unimposing appearance of No. 29, a more dominant and assertive building would read as a more appropriate termination of the terrace and adjoining land that comprises Nos. 29 to 51. Conversely, the fact that the ridge height would be half a metre lower than that of the adjacent two storey building of No. 33 indicates that the scale of the proposal would not be excessive for its context.
6. A major part of the Council's assertion of a building too big for its plot is the effect on the footpath that separates the site from the rear gardens of the properties in Gosfield Road. However, in addition to my view that a tight building line would be appropriate in this urban setting, the length of the elevation relative to that of the footpath would be small, the footpath at this point is wide, and the open aspect over the gardens of the houses in Gosfield Road would remain unaltered. Nor do I accept that there would be the alleged problem of the development overshadowing the footpath, as given the building's siting and orientation this would be limited to a brief period in the first half of the morning.
7. Finally on this issue, the officer's report acknowledges both that the design of the proposed elevations would in part reference the neighbouring two storey building and the three storey Wellington Court on the opposite side of the road. The Council additionally accepts that the locality comprises buildings of varying architectural style. Overall, given the constraints of the site and the mixed nature of its surroundings I conclude that the development would enhance rather than harm the character and appearance of the area. Accordingly, there would be no harmful conflict with Policy CS5 of the Epsom Core Strategy 2007; Policies DM9 & DM10 of the Epsom Development Management Policies Document 2015 ('the DMPD'), and Section 12: 'Achieving Well-Designed Places' of the National Planning Policy Framework 2021 (the Framework').
8. Turning to the second main issue, the Council considers that given it would face the boundary with No. 33, Bedroom 1 of Flat 1 would suffer from a sub-standard outlook and light. I note that this is the smallest of the proposed three bedrooms with the two others, particularly Bedroom 2 much larger. Nonetheless this poor outlook and light is a disadvantage of the scheme, albeit that if a prospective occupier were to require a third bedroom to be regularly used as such (rather than, say a spare bedroom or study) they may well be unlikely to choose this flat as their place of residence.
9. The further objection of the Council on this issue is that five of the eight flats would have an inadequate private amenity areas, because they would fail to meet the minimum standards set out in paragraph 3.36 and Policy DM12 of the DMPD. This shortfall is a further disadvantage of the appeal scheme.
10. However, in this case I consider that there is substantial mitigation in the conflict with the Council's standards. Firstly, as regards the overall living

conditions the total floor area and the room dimensions of all the flats would exceed the minimum standards specified in the Nationally Described Space Standards. Space inside and outside a dwelling do of course fulfil quite different needs, but this does not mean that the size of the accommodation as a whole is not an important factor in the perceived quality of the dwelling's living space.

11. Secondly, the appeal development is on a highly constrained site in an edge of town centre location. Prospective occupiers in their decision-making will no doubt trade the disadvantage of the smaller external amenity areas against the advantage of the close proximity to the town centre shops and cafes, bus stops and the railway station. In the event, the external amenity space is in my view adequate for the purposes of sitting out and as a play space for infants. And as the appellant points out, there are the Court Recreation Ground and Roseberry Park within a few minutes walking distance of the proposed flats for more active leisure pursuits.
12. These elements of mitigation notwithstanding, I conclude on this issue that the outlook from one bedroom in Flat 1 and the size of the external amenity space for a number of the flats would not be policy compliant and are drawbacks of the scheme. With that said, the scheme is for open market housing and prospective occupiers will first be able to weigh up the pros and cons of living in the development. In short, I regard the conflict with Policy DM12 as neither fundamental nor a determining issue in the appeal.

Other Matter

13. The 2021 Housing Delivery Test shows that the Council has failed to achieve its housing targets, with only a third of the required total having been met. In these circumstances paragraph 11d)ii & footnote 8 of the Framework is engaged, whereby planning permission for additional housing must be granted unless 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. This has to be weighed in the planning balance in my conclusions on this appeal.

Conclusion and Conditions

14. The appeal application would result in a net gain of six dwellings in a highly sustainable location. I have found in the appellant's favour on the first issue of character and appearance, and whilst I have acknowledged shortfalls on the second issue of living conditions for future occupiers, there are mitigating circumstances.
15. Overall, I conclude that although there are some adverse features of this development they would not significantly and demonstrably outweigh the benefit of the additional six dwellings. Accordingly I shall allow the appeal and grant outline planning permission subject to conditions.
16. In this regard the Council has suggested a number of conditions which are both necessary and reasonable. A condition requiring the development to be carried out in accordance with the approved plans will avoid uncertainty and is in the interests of proper planning. A reserved matters condition in respect of landscaping will secure visual and residential amenities, whilst a condition in respect of samples and details of external materials and boundary treatment

will ensure a satisfactory appearance of the building in the interests of visual amenity.

17. A condition requiring the development to accord with pre-approved existing and approved site, floor and ridge levels will safeguard both visual amenity and the living conditions for nearby occupiers. A condition restricting the outlook from the windows facing No. 33 Waterloo Road will retain privacy for these neighbours, whilst a condition requiring further details of the cycle storage facilities as shown on the approved plans will ensure that highway safety is not prejudiced. It will also encourage the occupiers to adopt this sustainable mode of transport.
18. A conditions is also needed to provide adequate refuse storage and recycling facilities for the benefit of the local and national environment. There is also a need to stipulate the provision of a Construction Transport Management Plan. The latter will ensure that the convenience of highway users and their safety are protected. Finally, a number of inter-related conditions are necessary to preclude any ongoing land contamination that would have the potential to undermine public health for neighbours, future occupiers of the development and the community.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this permission, or before expiration of two years from the date of approval of the the reserved matter, whichever is the later;
- 2) No development shall commence until details of the landscaping (the reserved matter) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details;
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: SK01; Location Plan; SK02; Block Plan; SK03 Proposed Ground Floor; SK04 Proposed First Floor; SK05 Proposed Second Floor; SK06 Proposed Roof Plan; SK 07 Proposed Front & Right Flank Elevations; SK08 Proposed Rear & Left Flank Elevations; SK09 Proposed Sections; SK10 Indicative Landscaping Plan; SK11 Existing & Proposed Street Scenes; SK12 Left Flank Street Scene;
- 4) Prior to above ground works, details and samples of all external materials (including boundary treatment) to be used for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details;
- 5) The development shall take place only in accordance with details of existing and proposed finished site levels, finished floor and ridge levels of the buildings to be erected, and finished external surface levels that have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details;
- 6) Before any occupation of the development hereby permitted, the side facing first and second floor windows facing No. 33 Waterloo Road, shall be constructed so that no part of the framework less than 1.7m above finished floor level shall be openable. Any part below that level shall be fitted with, and retained in, obscure glazing to a minimum of level 3 on the standard scale. Any film used to achieve the requisite obscurity level shall be non- perishable and tamper-proof, and must be replaced in the event that it ceases in obscurity level 3;
- 7) Prior to beneficial occupation of the development hereby approved, details of secure bicycle parking facilities for the occupants of, and visitors to, shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for such use at all times.
- 8) Prior to beneficial occupation of the development hereby approved, details of refuse and recycling facilities for the occupants of the development shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for such use at all times;

9) No development shall commence until a Construction Transport Management Plan, to include details of: (a) parking for vehicles of site personnel, operative and visitors; (b) loading and unloading of plant and materials; (c) storage of plant and materials; (d) measures to prevent the deposit of materials on the highway; (e) hours of operation has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented throughout the construction of the development;

10) If deemed necessary by the Local Planning Authority, the following shall be undertaken prior to occupation of the site, in accordance with current best practice guidance: (i) a desk study, site investigation and risk assessment to determine the existence, extent and concentrations of any made ground/fill, ground gas (including volatile hydrocarbons) and contaminants with the potential to impact sensitive receptors on and off site. The scope and detail of these shall be subject to the approval in writing by the Local Planning Authority. The results of the investigation and risk assessment shall be submitted to and approved by the Local Planning Authority; and (ii) if ground/groundwater contamination, filled ground and/or ground gas is found to present unacceptable risks, a detailed scheme of risk management measures shall be designed and submitted to the Local Planning Authority for approval. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved by the Local Planning Authority;

11) Prior to any occupation of the site, the approved remediation scheme prepared under Condition 10 must be carried out in accordance with its terms. Following completion, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority;

12) In the event that contamination is found at any time when carrying out the approved development that was not previously identified must be report in writing immediately to the Local Planning Authority. In that event, an investigation and risk assessment must be undertaken and where remediation is deemed necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.