



Appeal Decision

Site visit made on 24 August 2022

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2022

Appeal Ref: APP/K3605/W/22/3294450

25 Lodge Close, Stoke D'Abernon, Cobham KT11 2SG

- 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 & Mrs Daniel and Dion McKeown against the decision of Elmbridge Borough Council.
 - The application Ref 2021/2770, dated 29 July 2021, was refused by notice dated 15 December 2021.
 - The development proposed is described on the application form as the 'demolition of existing house and detached garages and outbuildings and construction of two-storey detached house and garage'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area; and
 - The effect of the proposed development on the living conditions of the occupants of 27 Lodge Close, with particular regard to overlooking and outlook.

Reasons

Character and appearance

3. The appeal site comprises a detached dwelling set within a large corner plot. Properties surrounding the site are varied in their detailed design, position within plots and orientation. Both one and two-storey dwellings exist, the majority being two-storey. Despite these variations, the setback of properties from the road behind well landscaped gardens, together with the prevalence of leaded (or leaded-style) windows, results in a clear sense of harmony and order across Lodge Close. The appeal property differs somewhat as it does not directly face the road, meaning it is not overly prominent within the street scene, and it does not feature leaded windows. Although the appeal property features habitable rooms within its roofspace, it appears from Lodge Close, and neighbouring properties, as a bungalow with a steeply pitched roof.
4. The proposed development would replace the existing property with a two-storey dwelling with outbuilding. The dwelling would feature a central

- projecting bay, a crown roof and would be re-orientated slightly towards the site entrance. Materials would be of brick and stone with clay plain roof tiles.
5. I acknowledge that the proposed development has taken some of its design cues from the surrounding area, particularly in respect of the use of brick and clay tile materials. I also acknowledge that a reasonably sized garden plot would remain as a result of the proposed development and the property would remain setback from the road.
 6. Although the footprint of the proposed property would not change significantly relative to the existing property, and its reorientation towards the road would be in keeping with surrounding properties within Lodge Close, the overall size and bulk of the proposed dwelling would be substantial. The scale, mass and bulk of the proposed dwelling, including its roof profile, would be far in excess, and out of proportion, with the existing and neighbouring properties. It would be readily visible from within Lodge Close, over the boundary treatment along the adjoining footpath and from neighbouring properties, even when taking into account the change in topography within Lodge Close and intervening boundary treatments. In any case, planting and boundary features cannot be relied on in perpetuity to give the same level of visual screening as they do at present from certain angles.
 7. Taken as a whole, the proposed dwelling would be viewed as an overly large and bulky feature within the context of the surrounding townscape, particularly in a part of Lodge Close that which features predominantly single-storey (some with roofspace accommodation) properties.
 8. I note the appellant's comment in respect of Case Study 1 of the Design and Character Supplementary Planning Document (the SPD, 2012), also referenced within the SPD Companion Guide: Cobham, Oxshott, Stoke D'Abernon & Downside (the Companion Guide). Whilst it is contended that inspiration was taken from this, the case study cannot deal with every possible eventuality or design consideration, and the regard that has been given to it does not outweigh the harm that I have identified above in respect of the character and appearance of the surrounding area.
 9. My attention has been drawn to a series of houses in the locality, which comprise either replacement, large or extended properties, including at 19 Lodge Close and at Knowle Park. However, I do not have the full details of those cases before me. In any case, based on the evidence I have and site observations, the circumstances between those sites and the appeal site are not directly comparable in terms of plot size, position relative to adjacent roads or detailed design. Ultimately, the existence of those surrounding properties does not lead me to change my conclusion in respect of the appeal site. Similarly, the fact that a significant proportion of two-storey properties exist within the surrounding area, some higher than the appeal proposal, is not reason to automatically accept development here where harm has been identified.
 10. Consequently, the proposed development would have a detrimental impact upon the character and appearance of the street scene and surrounding area, contrary to the relevant provisions of Policy DM2 of the Elmbridge Development Management Plan (LP, 2015) and Policies CS10 and CS17 of the Elmbridge Core Strategy (CS, 2011) These policies, in summary, seek to achieve high quality design in new development that integrates with and enhances local

character. In reaching my conclusions I have also taken into account the SPD, the Companion Guide and paragraph 126 of the Framework.

Living conditions

11. The proposed development would replace the existing property, introducing windows at first floor level. Those windows to the front would be angled towards 27 Lodge Close.
12. At present, the occupants of No 27 benefit from reasonable levels of privacy within their rear garden due to the single-storey nature of the appeal property. Although a rooflight exists within the front roofslope of the appeal property, the position and limited size of this is such that it limits the ability of occupiers to overlook the garden of No 27.
13. The proposed development, irrespective of the change in topography, would allow long-range views from the upper floor of the appeal property towards the rear garden of No 27. Whilst the site is bounded by mature landscaping, planting and boundary features cannot, as noted above, be relied on in perpetuity to give the same level of screening as at present. The slightly angled nature of the proposed first floor windows, together with the rooms they serve being bedrooms, does not mean that overlooking would not occur. Overlooking would still be possible from an elevated position towards No 27.
14. I note that the separation distance between the nearest first floor windows of the proposed development and the rear garden of No 27 would be around 16 metres. Although the SPD sets guidance for a separation distance of in excess of 15 metres being adequate to prevent overlooking between dwellings, the relationship between the appeal property and No 27 is atypical and they are not closely aligned, angled and positioned in an unconventional fashion. As such, the recommended separation distances would be difficult to apply here. As such, I find that the proposed development would result in a harmful loss of privacy to the occupants of No 27.
15. I note the appellant's comments in respect of overlooking to habitable windows at No 27, however this matter is not in contention between the main parties. Nevertheless, this does not outweigh the harm to the amenity space identified above.
16. Notwithstanding the above, although the overall scale and mass of the new dwelling would increase relative to what is currently the case, the position and angle of the dwelling within the plot, together with its separation distance from any habitable windows at No 27, is such that the proposed development would not result in any unacceptable overbearing impact on the occupants of that property, or result in the loss of outlook from side facing windows.
17. Consequently, I conclude that the proposed development would harm the living conditions of the occupants of neighbouring properties, with particular regard to overlooking, contrary to the relevant provisions of LP Policy DM2, which in summary seeks to protect the living conditions of neighbouring occupants, including their privacy. In reaching my conclusions I have also taken into account the SPD and paragraph 130 of the Framework.

Other Matters

18. I have carefully considered the appellant's comments made in respect of pre-application advice, the limited number of objections from third parties, including statutory consultees¹, the proposed development's accordance with various other local policies and Framework provisions, the Council indicating that the proposal is acceptable in principle, that there is no dispute in respect of living conditions for future occupiers of the proposed development, sunlight or daylight levels or parking, that the proposed development would contribute towards Community Infrastructure Levy payments and that there is no objection from the Council's tree officer, subject to conditions. I also acknowledge the environmental benefits that the proposed development could provide.
19. Nevertheless, none of these matters, individually or cumulatively, change my conclusion on the main issues or outweigh the harm that I have identified and the conflict with the development plan.
20. In respect of the Thames Basin Heath Special Protection Area, I note the appellant's inclusion of a Preliminary Roost Assessment, Bat Activity Survey Report and Bat Mitigation Plan. However, Habitats Regulation 63(1) states that 'a competent authority, before deciding to undertake, or give any consent, must make an appropriate assessment of the implications of the plan or project for that site'. Given my reasoning in respect of the main issue and that the appeal is dismissed, there is therefore no requirement upon me in that regard, and even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.

Conclusion

21. For the above reasons and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR

¹ Elmbridge tree officers, Surrey Bat Group and Surrey Wildlife Trust.