

Appeal Decision

Site visit made on 22 August 2022

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2022

Appeal Ref: APP/C1760/D/22/3297632

32 Morgan Le Fay Drive, Chandlers Ford SO53 4JG

- 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 Bobby Ladher against the decision of Test Valley Borough Council.
 - The application Ref 22/00579/FULLS, dated 1 March 2022, was refused by notice dated 25 April 2022.
 - The development proposed is a first floor extension, part garage conversion and new bifold doors to the rear.
-

Decision

1. The appeal is allowed and planning permission is granted for a first floor extension, part garage conversion and new bifold doors to the rear in accordance with the terms of the application Ref 22/00579/FULLS, dated 1 March 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2022/01C and 2022/02.
 - 3) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Main issue

2. The Council's only reason for refusal of the appeal application relates to the possibility of the development having an adverse impact on protected species. No other objections have been raised. The main issue is therefore the effect of the proposal on protected species.

Reasons

3. Bats are protected species under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. Government guidance in Circular 06/2005 (the Circular) states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is

granted, otherwise all relevant material considerations may not have been addressed in making the decision. The Circular does, however, acknowledge the delay and cost of protected species surveys and therefore advises that these surveys should not be required unless there is a reasonable likelihood of the species being present and affected by the development. The key here is therefore whether there is a reasonable likelihood of bats being present and affected by the proposed development.

4. No bat survey has been carried out. Natural England's *Bats: advice for making planning decisions* provides a list of criteria to use when assessing whether a survey should be required. These include where a building is close to woodland and where it has hanging tiles on south-facing walls and has not been used for several years. The guidance also notes that bats are more likely to be present in areas which have little or no disturbance from artificial lighting.
5. 32 Morgan Le Fay Drive is a fairly recently constructed house in a residential estate. It sits close to woodland that could provide foraging and roosting opportunities for bats. There is therefore a high likelihood of bats in the local area and this criterion from the Natural England guidance applies. The chances of bats using the residential estate are, however, somewhat reduced by the presence of street lighting.
6. The main part of the proposed development is a first floor extension over an integral garage which has concrete roof tiles. These roof tiles are close fitting and must provide very little potential for use by bats. The extension would also require the removal of 2 dormer windows which have hanging tiles on their vertical sections. These are very small areas of tiles, and only 2 sections are south facing, plus the building is not disused. The Natural England criterion regarding tile hanging is therefore not fully met. The much larger areas of tile hanging on a front gable would not be directly affected by the proposal.
7. Although there is woodland near to No 32, and despite the absence of any expert evidence to support the proposal, it appears to me that the chances of bats using these tiny areas of hanging tiles on this relatively new house in a street lit area are relatively minimal. I conclude that there is not a reasonable likelihood that bats would be affected by the development and that a survey should not be required. The proposal accords with the aims of Policy E5 of the Test Valley Borough Revised Local Plan (RLP) and the Circular, to conserve biodiversity. The Council also refers to RLP policy COM2 but that is a more strategic level policy and I see no direct relevance.
8. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

INSPECTOR