



Appeal Decision

Site visit made on 21 September 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 OCTOBER 2022

Appeal Ref: APP/P3610/W/21/3287181

324 Kingston Road, Ewell KT19 0SU

- 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.
 - The appeal is made by Mr Andy Marley against Epsom and Ewell Borough Council.
 - The application Ref 21/00146/FUL, is dated 27 January 2021.
 - The development proposed is described as the demolition of existing dwelling and garage and erection of a two-storey building (with loft accommodation) comprising 7 flat units and associated parking.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Applications for costs

2. An application for costs was made by Mr Andy Marley against the decision of Epsom and Ewell Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. For clarity and brevity, I have taken the description from the appeal form as it adequately and simply describes the proposed development instead of the much longer and detailed description given on the application form.

Background and Main Issues

4. The Council did not issue a decision within the prescribed period. Therefore, the appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application. The Council's evidence sets out its concerns regarding the impact of the proposal on the character and appearance of the area, living conditions of future and neighbouring occupiers and parking provision.
5. Therefore, in light of the above, I consider the main issues to be, the effect of the proposed development on:
 - The living conditions of the neighbouring occupants at 326 Kingston Road with particular reference to privacy;
 - The character and appearance of the area;
 - The living conditions of the future occupants with particular reference to outlook and amenity space; and

- On street parking.

Reasons

Living Conditions Neighbouring Occupants

6. A proposed first-floor side window would face 326 Kingston Road, this proposed window would serve the bedroom of Flat 6. While the window would directly look out onto the flank wall of No 326, angled views across the single storey extension and into the garden of this neighbour would also be possible given its proximity. This would result in the unacceptable overlooking of the garden area of this neighbouring property.
7. The proposed development would consequently have an unacceptably harmful effect on the living conditions of the neighbouring occupants at 326 Kingston Road with particular reference to privacy. The proposal would therefore be contrary to the relevant provisions of Policy DM10 of the Epsom and Ewell Development Management Policies Document 2015 (the DMPD). These, amongst other things, address the need for high quality design therefore respecting the living conditions of neighbouring occupiers.

Character and Appearance

8. The appeal site comprises a chalet style bungalow with accommodation in the roof. An existing area of hardstanding is located to the front of the dwelling and a single storey garage to the side/rear. Existing dwellings, particularly those either side of the appeal site, also have some variation in design and appearance.
9. The proposed development would include the demolition of the existing dwelling, detached garage and the erection of a two-storey building with a further third storey of accommodation in the roof space.
10. While the proposed development would increase the mass of the proposal in both width and height, when compared to the existing dwelling, the Council acknowledge the replacement building would be of comparable height to the built form within the existing street scene. There would also be reasonable separation to the flank boundaries on each side of the replacement building.
11. The proposed development would also be of greater depth extending further to the rear of the appeal site. However, when experienced from public vantage points this greater depth would have limited visual impact due to the glimpsed and oblique angle viewpoints between the existing buildings.
12. The Council are concerned regarding the effect of the crown roof style of the proposed development, particularly in relation to the depth of the proposal. The pitched sections of the proposed roof have been influenced by the surrounding roof angles and appearance. The flat roof sections would also be narrow and while deeper, as indicated above, this depth would have limited visual impact when experienced from public vantage points. For these reasons the roof design would not be unacceptably harmful, either alone or in combination with the width, depth and height of the overall development.
13. There is hardstanding to the front of the existing dwelling, and this is to be retained. Some neighbouring properties also have hardstanding to their frontages. The drawings also show landscaping, and a fence would also be

proposed to the frontage to soften this hardstanding and the visual impact of parked cars.

14. I therefore find that the development would not result in unacceptable harm to the character and appearance of the area. Accordingly, there would be no conflict with the relevant provisions of Policies CS1 and CS5 of the Epsom and Ewell Core Strategy 2007 (the Core Strategy), Policies DM9, DM10 and DM16 of the DMPD and Paragraphs 130 and 134 of the National Planning Policy Framework (July 2021) (the Framework) all of which, amongst other things, seek to ensure that development is sympathetic to the character and appearance of the area.

Living Conditions Future Occupants

15. The two proposed bedrooms of Flat 7 would be served by rooflights. Future occupiers of these bedrooms should be able to enjoy a reasonable outlook to the external environment and this outlook should go beyond a small vista of the sky.
16. The section drawings (dwg nos 19 and 20), show the roof lights facing onto Kingston Road, which serve these bedrooms, would be above 1 metre and below 1.7m of the finished floor level. Additionally, these windows would be of reasonable width. Given the position and size of these windows I consider a meaningful outlook from these windows could be achieved.
17. Policy DM12 states the Council will only grant planning permission for new dwellings that provide adequate internal space and appropriate external private and/or communal amenity space.
18. In this case the Council raises no objection in respect to internal space or communal amenity space. The use of 'and/or' in the policy suggests that the provision of either a policy compliant private space or communal amenity space would be acceptable. In this case the Council raises no objection in respect to the communal space and as such it would appear to me the policy does not insist on private amenity space in addition to this.
19. In coming to this finding, I have considered the supporting text at paragraph 3.36 of the DMPD. However, this sets out private amenity space requirements and suggests 'where appropriate' upper floor flats 'may' have a balcony in addition to the communal space. As I have found the policy does not insist on providing both, I am satisfied that the development proposal complies with Policy DM12 in this instance.
20. The Council suggest that the development proposal would not comply with the Technical Housing Standards - Nationally Described Space Standards 2015. However, I have not been provided with substantive evidence to explain how the proposed internal floorspace does not accord with these standards.
21. The proposed development would therefore have an acceptable effect on the living conditions of the future occupants with particular reference to outlook and outdoor amenity space. The proposal would therefore be in accordance with the relevant provisions of Policy DM12 of the DMPD and paragraph 130 of the Framework. These, amongst other things, address the need for high quality design therefore respecting the living conditions of residential occupiers.

Parking

22. Policy DM37 of the DMPD states that developments will have to demonstrate appropriate provision of off-street parking to avoid an unacceptable impact on on-street parking conditions and local traffic conditions.
23. The Council's Parking Standards for Residential Development SPD 2015 requires a minimum of 8 off street parking spaces for the proposed development. 5 off street parking spaces are provided, therefore generating a shortfall of 3 parking spaces.
24. Policy DM37 of the DMPD allows exceptions to parking standards if it can be robustly demonstrated that the level of on-site parking associated with the proposal would have no harmful impact on the surrounding area in terms of street scene or the availability of on-street parking.
25. The Council confirm that the appeal site is very close to a bus stop that provides regular and frequent access to the main Town Centre, local railway stations and main hospital. The site is also reasonably close to Stoneleigh Train Station and local facilities such as a supermarket, pharmacy and, post office.
26. The County Highway Authority (CHA), as a consultee to the application, also confirm the site is located in reasonable proximity to amenities and public transport links with adequate on-site cycle parking proposed as part of the development. The CHA supported the reduced private car parking provision and considered that the proposal would be unlikely to have a material impact on highway safety issues.
27. While the development as proposed does not comply with parking standards, Policy 37 of the DMPD allows exceptions to this approach as set out above. In this case, given the accessibility to public transport and amenities, an exception for this reduced standard is considered acceptable. Additionally, no substantive evidence is before me showing that any increased demand for on street parking would have a harmful impact on the street scene or availability of on-street parking.
28. Therefore, it has not been satisfactorily demonstrated that the development would lead to any unacceptable on street parking or harmful impact to the street scene. The proposed development, while in conflict with the Council's Parking Standards, is in accordance with the relevant provisions of Policy DM37 of the DMPD which, amongst other things, seek to ensure development proposals do not detrimentally impact upon on street parking conditions or the street scene. Any conflict with the parking standards is outweighed by the compliance with Policy DM37.

Other Matters

29. I note concerns have been raised about flooding, if this development had been acceptable in all regards, it would have been appropriate to impose a condition to secure a strategy of surface water drainage for the site.
30. The submitted Preliminary Bat Roost Assessment and subsequent Bat Survey Report conclude that no bats were found on site. Had this development been acceptable in all regards, it would have been appropriate to impose a condition to secure the mitigation measures set out in the report and assessment.

31. The development is likely to generate a greater level of domestic noise through increased activity at the site above the current situation. However, there is no substantive evidence before me to show that this level would be to an extent that would be unacceptable within the local setting.
32. The Council has raised no objection in respect to any unacceptable overshadowing of neighbouring properties. I have not been provided with any reasons to disagree with their findings.
33. Windows at first floor facing 322 Kingston Road would be secondary windows which could be conditioned to ensure glazing, and openings are controlled to prevent unacceptable overlooking. Second floor rooflights on this same elevation, would be more than 1.7m above finished floor level also significantly reducing opportunities for unacceptable overlooking.
34. There is no compelling evidence before me that refuse, and recycling storage would not be sufficient for future occupiers. Additionally, any development to the land at the rear of the site falls outside of the scope of this appeal.
35. Highway impacts during the construction phase would be adequately controlled through a condition to agree a Construction Transport Management Plan. Additionally, vehicle swept path analysis drawings, show that vehicles in the parking bays can enter and leave the site in forward gear.

Planning Balance

36. The main parties agree that the Council is unable to demonstrate a five-year supply of deliverable housing sites and there is a significant undersupply of housing. As such, paragraph 11 of the National Planning Policy Framework (the Framework) should therefore be applied.
37. The provision of six net additional units would make a contribution to housing stock. It would also be located in an urban area, is previously developed land and would be an efficient use of land with good access to local services, employment, facilities and public transport. The building would also be constructed in a thermally and energy efficient manner and there would also be further modest economic advantages which would arise from the construction and occupation of a new units. Nevertheless, given the relatively limited quantum of new development under consideration, when taken as a whole, the cumulative weight attributable to these benefits is moderate.
38. There is, however, a significant degree of harm arising from the impact upon the living conditions of the neighbouring occupants at 326 Kingston Road with particular reference to privacy. When assessed against the policies in the Framework taken as a whole, this harm would significantly and demonstrably outweigh the benefits. Therefore, the conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

39. The appeal scheme would therefore conflict with the development plan when read as a whole for the reasons I have given, and I consider there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed and planning permission refused.

N Praine

INSPECTOR