



Appeal Decisions

Site visit made on 21 September 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/P3610/W/21/3283320

107 - 111 East Street, Epsom KT17 1EJ

- 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 107 - 109 East Street Limited against the decision of Epsom and Ewell Borough Council.
 - The application Ref 20/00797/FUL, dated 10 June 2020, was refused by notice dated 11 August 2021.
 - The development proposed is the demolition of the existing buildings and construction of a part four storey, part three storey building comprising 23 residential flats (Use Class C3) with associated car and cycle parking and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant submitted a separate appeal for a different proposal on the same site (reference: APP/P3610/W/22/3299653). This appeal is the subject of a separate decision.

Main Issues

3. The main issues relevant to this appeal are:
 - whether sufficient car parking would be provided;
 - the effect of the development upon highway safety;
 - the effect of the development upon the character and appearance of the surrounding area; and
 - whether there is a mechanism to secure the delivery of on-site affordable housing.

Reasons

Car parking

4. The proposed development would contain 23 dwellings. Some of these would have a multiple number of bedrooms. The proposed development would include 17 car parking off-street car parking spaces.
5. By reason of the scale of the proposed development, the number of dwellings and the number of bedrooms included within the development, there is a likelihood that there would be a significant number of occupiers within the

building. Therefore, it is likely that the number of vehicle movements would be significantly greater than the number of car parking spaces.

6. In addition, the proposed development would include some dwellings of a relatively large size. This means that they could potentially be used for family accommodation. In consequence, this is likely to result in a greater number of people looking to park cars in the vicinity of the appeal site.
7. In result, it is likely that some of these cars would be displaced on to the surrounding road network owing to the limited on site car parking provision. this is a concern, as the surrounding road network features a significant number of dropped kerbs, junctions, and other road infrastructure. Therefore, if people were to park their vehicles close to the proposed development there is a likelihood that such vehicles would be parked in inopportune locations.
8. This is because the parking of vehicles is likely to have an adverse effect upon the visibility of both pedestrians and other road users. The effect of this would be to increase the risk of collisions. In consequence the proposed development would therefore lead to an erosion of the overall level of highway safety.
9. In addition, a notably large proportion of the surrounding road network features various forms of car parking restrictions. This means that the proposed development is likely to give rise to the previous described adverse effects due to the potential competition that would exist between residents for car parking spaces within the surrounding area.
10. I acknowledge that the vicinity of the appeal site features a variety of services and other facilities. whilst these are likely to be of use to the future occupiers of the proposed development, the overall provision within the surrounding area would not meet all day-to-day needs. Therefore, journeys to other locations cannot be discounted. This is likely to encourage a degree of car ownership.
11. I am also aware that there is public transport provision within the surrounding area. For some journeys this would represent an alternative to travelling by private car, this may not be the case for all journeys the future occupiers are likely to wish to take. Furthermore, owning a private car is likely to, at times, represent a more convenient option. In result private car ownership cannot be discounted. This means that the adverse effects have a likelihood of occurring.
12. My attention has been drawn to developments elsewhere. I do not have the full information regarding the planning circumstances of these. This means that I can only give them a limited amount of weight. Nonetheless, I note that the development before me would result in a further increase for on street car parking spaces and from this, harm would emanate. Therefore, the presence of developments elsewhere does not allow me to disregard my previous concerns.
13. I therefore conclude that the proposed development does not contain sufficient car parking. The proposed development, in this regard, would conflict with Policy SC14 of the Epsom and Ewell Core Strategy (2007) (the Core Strategy); Policy DM37 of the Epsom and Ewell Development Management Policies Document (2015) (the DMPD); and the Parking Standards for Residential Development Supplementary Planning Document (2015). Amongst other matters, these seek to ensure that developments do not create, or exacerbate, on street car parking problems; and provide an appropriate level of off street car parking.

Highway safety

14. The proposed development would feature the car parking area to the rear of the site. Beyond the site's rear boundary is a private access road. This falls outside of the scope of the appeal site. The access road would also lead to other sites within the surrounding area.
15. Due to this narrow nature there is not a separate pedestrian environment. This is a concern as owing to the scale of the proposed development, it is likely that there would be a greater number of vehicles using this access road.
16. The presence of pedestrians using the access road cannot be discounted given that the access road forms part of a wider network of footpaths linking Epsom and Ewell. Furthermore, from this network, it is possible to access a variety of other uses within the surrounding area, such as retail. Therefore, there is a likelihood that this access road would be well used by pedestrians in the future.
17. In result should the proposal proceed, it is likely that there would be increased conflict between pedestrians and the movement of vehicles within this road. This has the potential to erode the overall level of safety for pedestrians.
18. Owing to the ownership of this access road falling outside of the control of the appellant, there is not a mechanism before me by which appropriate pedestrian environments could be secured. Therefore, the previous described adverse effects have a reasonable likelihood of occurring.
19. Although the access road is of a size to allow for the passing of vehicles, this would not overcome my concerns regarding the adverse effects upon the safety of pedestrians. This is because the vehicle tracking drawing to which I have been directed is clear that for two vehicles to pass one another, they would need to travel close to the edges of the access road.
20. This poses a concern given that the presence of the proposed development, in addition to existing boundary treatments and landscaping would result in a limited amount of space for pedestrians to move to. In result, there is a likelihood that the proposed development would result in conflict between the movement of vehicles and pedestrians.
21. It has been suggested that the use of the access road is relatively low. However, even if I were to agree with this assessment, the relative narrowness of the access road is such that should any pedestrians be using the access road at the point that two vehicles be using it, there would be an erosion of pedestrian safety. Therefore, this suggestion does not overcome my previous concerns.
22. The proposed development includes some improvements to pavements. Whilst this weighs in favour of the proposed development, this does not overcome my concerns owing to the limited scale of any such benefits.
23. I therefore conclude that the proposed developments would have an adverse effect upon highway safety. The development, in this regard, would conflict with the requirements of Policies CS16 of the Core Strategy and Policy DM10 of the DMPD. Amongst other matters, these seek to ensure that developments provide safe and convenient access; and incorporate appropriate access and layout.

Character and appearance

24. The appeal site is located close to a junction between Kiln Road and East Street. The nearby buildings are typically used for residential purposes and are typically of one or two stories in height. Whilst there are some buildings in the wider area that have a greater height, these are relatively few in number. This means that the surrounding area has a more open, suburban character.
25. The proposed development would have a significant height. In addition, the proposed development would have a design that features a notable bulk. This would be particularly apparent on the side boundaries of the appeal site. Therefore, the proposed development would appear incongruous when compared to the neighbouring dwellings.
26. In consequence, the proposed development would erode the character of the prevailing area owing to the proposed development appearing significantly larger and bulkier than the prevailing character. In addition, the proposed development would, by reason of its proximity to the boundaries of the appeal site result in an erosion of the vicinity's more open character.
27. Therefore, the proposed development would appear discordant when viewed alongside the smaller buildings in both East Street and Kiln Road, which are notably smaller and feature matters such as lower heights and pitched roofs.
28. Although there are some taller buildings in the wider area, these are located a notable distance away from the appeal site. In result, they would not be readily viewed alongside the proposed development. Therefore, the presence of these buildings does not render the proposed development less incongruous.
29. This is a concern given the general prominence of the appeal site. In particular, the proposed development would be viewed from the neighbouring properties. Furthermore, views would be possible from several different vantage points in both East Street and Kiln Road owing to the relatively level topography in the surrounding area and the more open character of the vicinity. Therefore, the proposed development would be visible for significant parts of the local area.
30. By reason of the road layout and the general topography of the surrounding area, views of the rear elevation of the proposed development would also be possible. This would mean that the proposed development would be incongruous when viewed alongside the differently proportioned neighbouring buildings and would add to the general prominence of the proposal.
31. Owing to the pattern of development and layout in the surrounding area, the proposed development has the potential to be experienced by a great number of people. It would therefore be a strident addition to the local area.
32. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with Core Strategy Policy CS5 and Policies DM9, DM10 and DM11 of the DMPD. Amongst other matters, these seek to ensure that developments are of a high quality design; make a positive contribution to visual character; respect, maintain or enhance local character; and be of an appropriate density.

Affordable housing

33. The proposed development would include 23 dwellings. In considering this appeal, I have been directed towards an adopted planning policy that seeks to ensure the delivery of affordable housing. This policy approach is consistent with the National Planning Policy Framework (the Framework), which seeks to ensure that the planning system deliver a mixture of different housing types. Therefore, given the scale of the development, there should be some on site affordable housing.
34. Although not presented to the Council prior to the determination of the planning application, the appeal documentation includes a completed Section 106 Legal Agreement. Therefore, I am compelled to give this consideration as part of the determination of this appeal.
35. Furthermore, the proposed development would also include a financial payment to fund further off-site affordable housing. This would mean that there is a robust mechanism in place to ensure the delivery of a mixture of house types in the surrounding area.
36. The completed Section 106 Agreement has been signed by both the appellant and the Council. Therefore, had I been minded to allow this appeal it would provide a robust mechanism for the delivery of affordable housing on site within a timely manner.
37. In result, there is a mechanism before me that would provide appropriate affordable housing throughout the life of the developments had I been minded to allow the appeal. This would be an enforceable obligation. In addition, the Section 106 Agreement would deliver a level of affordable housing that would be consistent with the requirements of the Development Plan.
38. Therefore, I have certainty that affordable housing could be delivered as part of the appeal proposals. I therefore conclude that the proposed development would provide appropriate levels of affordable housing. The development, in this regard, would comply with Policy CS9 of the Core Strategy. Amongst other matters, this seeks to ensure that new developments deliver affordable housing.

Other Matters

39. The evidence before me is indicative that the Council cannot currently demonstrate a five-year housing supply. In consequence, the provisions of Paragraph 11(d) of the National Planning Policy Framework (the Framework) apply. This states that planning permissions should 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 is referred to as the 'tilted balance'.
40. In this instance, the benefits include an addition to the local housing supply, which would include a provision of some affordable housing. However, the proposed development, in its totality, would provide 21 dwellings, which lessens the weight that can be attributed to it. In result, I give this matter a moderate amount of weight.

41. The development would generate some economic benefits. However, those that would arise from the construction process would be of a time-limited duration. In result, this can be attributed a limited amount of weight.
42. The occupiers of the development would support business and other facilities in the wider area. However, given the scale of the development is such that any such support can be attributed a limited amount of weight.
43. Therefore, I have found that the proposed development would give rise to a significant adverse effect on the character and appearance of the surrounding area and the significant harm that would arise from the adverse effects on highway safety and lack of appropriate car parking provision. In result, I find that the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits.
44. Concerns regarding the manner in which the Council considered the planning application fall outside of the scope of this decision.

Conclusion

45. The proposed development would have a significant adverse effect upon the character and appearance of the surrounding area, would erode highways safety and would not provide an appropriate car parking provision. These outweigh the benefits arising from the provision of affordable housing. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed

Benjamin Clarke

INSPECTOR