



Appeal Decision

Site visit made on 21 September 2022

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2022

Appeal Ref: APP/L3625/W/21/3285058

48 Cross Road, Tadworth KT20 5ST

- 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 Richard Skelley of Denton Homes Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 21/01074/F, dated 20 April 2021, was refused by notice dated 6 August 2021.
 - The development proposed is demolition of an existing dwelling house and erection of two new four bedroom semi-detached dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged the Council has extended the Tadworth Conservation Area (TCA) to include most of the appeal site. Having regard to my statutory duties under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCAA) I have allowed the Council and appellant the opportunity to comment upon this, and taken the comments into account. This is reflected in the wording of the main issues below.
3. The Council's third reason for refusal was in respect of the living conditions of future occupiers of the development with reference to noise and disturbance. In-light of an Inspector's conclusions for an allowed appeal on part of the appeal site and garden land to the rear¹, the Council has withdrawn this reason for refusal. Therefore, I have not considered this matter further.
4. The Council's description and part of the first reason for refusal in the decision notice makes reference to the formation of an access drive to land to the rear of the new building. The appellant informs me this is not part of the proposal. I have considered this proposal having regard to the hardstanding indicated on the submitted plan² which shows the driveway ceasing a short distance past the front elevation.
5. The appellant has submitted amended plans showing a number of amendments to aspects of the design of the building. The Planning Inspectorate Procedural Guide: Planning Appeals – England 2022 states the appeal process should not

¹ Appeal Ref. APP/L3625/W/20/3265930.

² Drawing No 2-04 C.

be used to evolve a scheme, and what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought. Taking into account the Wheatcroft principles³, it is important that I determine the appeal on the basis upon which interested people's views were sought. Having regard to the cumulative effect of the changes I consider these significant in the context of the appeal scheme. Therefore, I have not had regard to them in determining this appeal.

Main Issue

6. The main issue is the effect of the proposed development upon the character and appearance of the area, including the character, appearance and significance of the TCA.

Reasons

7. The appeal site comprises a large white painted two storey building in the TCA, within which there is a statutory duty under section 72(1) of the LBCAA to pay special attention to the desirability of preserving or enhancing its character or appearance. Paragraph 199 of the National Planning Policy Framework (2021) (the Framework) requires when considering the impact upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. Harm to the significance of a designated heritage asset requires clear and convincing justification (paragraph 200).
8. The TCA includes a variety of historic buildings and their grounds around a number of thoroughfares and spaces. It derives its significance from the variety of attractive historic buildings, including Victorian, Edwardian, arts and crafts, and other mostly historic or period buildings, displaying a range of designs, materials, architectural features and often generous and maturely landscaped grounds. In the vicinity of the appeal site, it is primarily characterised by large distinctive Edwardian domestic buildings of a variety of designs, materials and period features set within large well-vegetated plots.
9. Land and buildings to the front and rear, and west of the neighbouring No 46, are outside the TCA. However, they also include a number of examples of well-maintained generally detached domestic buildings integrating some period features in brickwork, whitewash or rendering, hung tiles, boarding multiple hip and gable roofs, and leaded casement windows, within varying sized plots.
10. The appeal site dwelling is one of 3 nearby on Cross Road of a very similar design. There is conflicting evidence as to whether it is by Morley Horder or Charles Edward Mercer. However, it includes large cross-gabled elevations, tall chimneys, leaded casement windows, a hung tiled bay, a distinctive hung tile part glazed turret, within a maturely vegetated plot. The building does not appear to have undergone the same degree of maintenance as some and it has extensions and alterations including a two storey gabled side, and a rear extension. However, it has retained much of the original form, composition, distinctive appearance, design qualities and interest.
11. As a distinctive historic building in a generous verdant plot, it makes a positive contribution to the character, appearance and significance of the TCA and the area. This is most apparent from the highway in front of the vehicle and pedestrian accesses and from some properties on the opposite side Cross

³ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

- Road. If the approved development were to take place to the rear then it would result in a formalising of part of the garden, modest increase in the access width and visibility splays, with access, parking and three new dwellings significantly to the rear. Given the distance and the layout it would do little to diminish the positive contribution of the appeal site to the TCA.
12. The appellant advises of my duty to consider together the impact of the loss of the existing building and the effect of the proposed development⁴ including the replacement building on the TCA. The new design appears to have taken some cues from buildings nearby including bay windows, hipped and half hipped gable roof forms, with brick and rendered elevations under a clay tiled roof.
 13. However, it lacks the same grand and distinctive appearance, proportions and period design features as the building to be demolished and many within the TCA and the area. From what I could see the porch below the soldier brick arch with front doors separated by a central wall would be noticeable as an unusual and incongruent feature, within the TCA and appeal side surrounds. The chimney would be much lower than many in the area being well below the ridgeline. The evidence suggests chimneys being so far below a much higher crown roof, are not characteristics of the nearby quality period and other buildings within the TCA and street scene where it would be most visible from.
 14. Many of the buildings I saw were generally either strongly symmetrical or strongly asymmetrical. Having almost symmetrical front elevations but one considerably projecting decorative gable and another less projecting hipped gable on this building appears somewhat confused and awkward. This is exacerbated by the relatively forward position of the chimney. While the development could be the subject of suitably worded planning conditions in respect of matters such as materials and minor design details, the effect of the design of the replacement new building upon the character, appearance and significance of the TCA would be a materially negative one.
 15. While the current building does not appear well-maintained, there is no evidence that would lead me to conclude the current use as a single dwellinghouse is not viable, or would fall into disrepair. The use for two separate dwellings and associated comings and goings is not of itself a positive effect on the TCA, and is at best a neutral effect.
 16. Much of the existing front garden space is gravel or lawned areas with some hedging and a Yew. The increase in access width would be limited with a small amount of frontage vegetation removed and remaining hedge trimmed. From what I saw and the evidence before me the access changes would not be out of keeping with the TCA or the area. If the consent to the rear of the appeal site were implemented it would have a similar effect upon the access.
 17. The Inspector for ref. no. 3265930 attached weight to the retention of the front garden as a greenspace for landscaping that would maintain the most prominent views of that appeal site from the street scene. Notwithstanding the larger overall space, wider gap to No 52 with more space for landscaping the significantly increased proportion of formalised driveway with parking would result in small, fragmented landscaped spaces, taking on a more urbanised appearance. This is likely to be prominently visible.

⁴ Dorothy Bohm & Ors v Secretary of State for Communities and Local Government & Ors [2017] EWHC 3217 (Admin).

18. While there were many substantially paved front areas outside the TCA in the wider area, notwithstanding the informal gravel driveway at No 46, the prevalence and proportions of such surfaced spaces appeared more limited on the eastern side of Cross Road and particularly within the TCA. On-balance this proposal would erode the verdant landscaped appearance of the appeal site and its contribution to the TCA and the area. The substantive evidence does not demonstrate to me the effect could be mitigated by a landscaping scheme by planning condition. However, allowing for further landscaping, the adverse effect overall, is a minor one.
19. I am informed the appellant may turn the front area to hardstanding under permitted development rights⁵. While this may have a greater than theoretical possibility of occurring, there are no plans showing what is intended, or substantive evidence that were the appeal to be dismissed, it would take place. Therefore, this attracts limited weight.
20. Plots nearby such as on Epsom Lane South, Oaklands Way, as well as those approved under the rear appeal scheme, appear to be of similar sizes to this appeal proposal, including a number to properties in close proximity to the appeal site. These new gardens would have a highly restricted visibility, particularly from the TCA, which could be further mitigated by good quality landscaping proposals. On-balance, subject to the imposition of suitably worded planning conditions, I am of the view this aspect of the proposal would have a largely neutral effect upon the TCA and the area.
21. A change from one to two dwellings is an act of development of itself, and part of it would be on rear garden land that would be subdivided as a consequence. Therefore, Policy DES2 of the Reigate and Banstead Development Management Plan (2019) (the DMP) is relevant to this appeal proposal.
22. For the reasons set out above, the proposed development would have a harmful effect upon the and appearance of the area, including a materially harmful effect upon the character, appearance and significance of the TCA as a whole. It would conflict with Policies DES1 and DES2 of the DMP insofar as these expect development to be of a high quality design that positively contributes to the character and appearance of its surroundings that promotes and reinforces local distinctiveness. It would also conflict with Policy NHE9 of the DMP and Policy CS4 of the Local Plan Core Strategy (2014) (the CS) which seek to ensure that development respects, conserves and enhances heritage assets. It would also conflict with the aims of section 72(1) of the LBCAA as it would neither preserve or enhance the character and appearance of the TCA.

Heritage Balance

23. The proposed development would result in less than substantial harm to the character, appearance and significance of the TCA. Paragraph 202 of the Framework states where a development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the development. However, considerable weight and importance should be given to an asset's conservation, and less than substantial harm should not be equated with a less than substantial planning objection.

⁵ Schedule 2, Part 1, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

24. The proposal would result in a limited economic benefit during construction and once complete a small on-going spend in the local economy. Even if the Housing Land Supply position was acute, the benefits from a net increase in one dwelling would be small. As a small windfall site, it could be built out relatively quickly and make a more effective use of the appeal site.
25. Subject to the imposition of suitably worded planning conditions to secure enhancements such as those referred to in the Preliminary Ecological Appraisal, there could be an overall limited benefit to biodiversity in the longer term, attracting limited weight in favour of the scheme. I see nothing to suggest the replacement of the building with two more resource and energy efficient homes, with some renewable energy generation, electronic vehicle charging points, and new drainage infrastructure, would be anything other than a limited benefit. Overall, the benefits of the development attract limited weight in favour of the scheme.
26. Compliance with policies in respect of matters such as the living conditions of future occupiers, arboricultural matters, certain aspects of design and layout, accessibility, and parking provision are neutral matters. Were I to conclude the proposed development is or could be made compliant by means of suitably worded planning conditions, with policies in respect of matters such as the living conditions of neighbouring occupiers, accessibility, the effects upon the wider highway network, refuse and recycling storage, broadband, landscape requirements, these would be neutral matters in the balance.
27. Overall, the public benefits constitute a limited public benefit. When giving considerable importance and weight to the special regard I must have to the desirability of preserving or enhancing the character or appearance of the TCA, I find that the harm that would arise from the appeal scheme would not be outweighed by its cumulative benefits. Accordingly, there would be a conflict with paragraph 202 of the Framework as the harm to a designated heritage asset would not have a clear and convincing justification, and it would also conflict with the aims of Policy NHE9 of the DMP. This attracts great weight.

Planning Balance & Conclusion

28. The development would result in harm to the character, appearance and significance of the TCA and the character and appearance of the area. The factors and benefits set out by the appellant, overall, attract limited weight in favour of the scheme. They do not outweigh the harm to the TCA and the area, which in combination attract great weight.
29. Therefore, the proposed development would be contrary to the development plan and the National Planning Policy Framework taken as a whole, and there are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR