



Appeal Decision

Site visit made on 9 January 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23/01/2023

Appeal Ref: APP/P3610/W/22/3297355

6 The Grove, Epsom KT17 4DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Oakton Developments Limited against the decision of Epsom and Ewell Borough Council.
 - The application Ref 21/01633/COND, dated 8 October 2021, sought approval of details pursuant to condition Nos 6, 7, 8, 10, 12, 13, 14 and 15 of a planning permission Ref 18/00647/FUL, granted on 20 December 2018.
 - The application was refused by notice dated 20 December 2021.
 - The development proposed is described as a two storey rear extension, 1st floor side extension, and conversion of existing dwelling to provide 4 No. 2 bed flats and 1 No. 1 bed flat, including parking and landscaping.
 - The details for which approval is sought are conditions 6 (landscape management plan), 7 (flues, extract ducts, vents, grilles and meter housings), 12 (car parking surface material), 13 (ecological measures) and 14 (landscaping).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Oakton Developments Limited against Epsom and Ewell Borough Council. This application is the subject of a separate Decision.

Preliminary matters

3. Informative 1 of the Council's decision notice under Ref 21/01633/COND, states that 'the Council cannot part-discharge conditions and therefore conditions 6, 7, 8, 10, 12, 13, 14 and 15 of planning permission are not discharged'.
4. The reasons for refusal cited on the decision notice, focus on conditions 6, 7, 12, 13 and 14. I have therefore determined the appeal on this basis.

Main Issue

5. The main issue is therefore whether the details submitted in relation to conditions 6, 7, 12, 13 and 14 of planning permission 18/00647/FUL are acceptable.

Reasons

Condition Nos 6, 12 and 14

6. The approved Site Plan drawing 18/022/01 Rev C associated with planning permission Ref 18/00647/FUL shows a retained hedgerow and soft landscaping to the appeal site boundaries. This drawing is also sited on the 18/0647/FUL decision notice as part of the approved plans.
7. Drawing TG27 Rev A, accompanied the approval of details application pursuant to condition nos. 6, 12 and 14 of 18/00647/FUL. However, red brick dwarf walls & railings to 1.6m in height and 1.8 metre boundary fence, constructed of concrete posts & fence panels were shown to the front and side boundaries. This conflicts with the soft landscaping shown on approved drawing 18/0647/FUL.
8. The appeal site lies within a conservation area and these areas are designated to manage and protect their special architectural and historic interest. The introduction of new development features evolves the development proposal beyond what was approved. Such changes have potential to impact on the character and appearance of the area. On this basis, it is important that what is considered, when agreeing conditions, is essentially the same as to what was originally considered.
9. A wall, railing or fence would be materially different to the soft landscaping previously agreed. These boundary features would be prominent in the conservation area and have potential to impact on its setting. No elevation details or material samples of the proposed features have been provided and these features may need planning permission in their own right.
10. Interested parties suggest an article 4 direction applies to the appeal site and I am mindful that site lies within a conservation area. The existence of any permitted development rights has not been robustly substantiated by the appellant in relation to the appeal site.
11. While parts of appellants submissions may be acceptable, the inconsistencies between the proposed Landscaping Plan TG27 Rev A and the approved Site Plan 18/022/01 Rev C would introduce an element of uncertainty surrounding what has been granted and what should be implemented to the site boundaries.
12. I therefore conclude that the Council's decision to refuse the submitted details associated with conditions 6, 12 and 14 was well founded. The proposal would consequently fail to comply with the relevant provisions of Policy CS5 of the Epsom and Ewell Borough Council Core Strategy 2007 (the CS) and Policies DM5 and DM9 of the Epsom and Ewell Borough Council Development Management Policies 2015 (the DMP). Taken together, and amongst other things, these policies seek to ensure that developments are of a high standard of design and respond to local context.

Condition No 7

13. Additional information has been provided confirming the finished material and location of the flues, extract ducts, vents, grilles and meter housings. The appellant confirms, via Whiteman Architects letter dated 9 March 2022 and drawings 100 Rev A and 101 rev A, that cast iron conservation vent grills and

mushroom vents would be proposed. Additionally, boiler flues would be finished in black to match these.

14. The vents and flues would be of an appropriate finish given their size and position on the building and the Council has not objected to the additional information provided. The meter boxes would be at ground floor and would be modest in size with limited visibility from public vantage points.
15. Accordingly, I conclude that the details submitted in relation to the flues, extract ducts, vents, grilles and meter housing aspects are acceptable and would meet the requirements of condition No 7.
16. These details would therefore comply with the relevant provisions of Policy CS5 of the CS and Policies DM8, DM9 and DM10 of the DMP. Taken together, and amongst other things, these policies seek to ensure that developments are of a high standard of design and respond to local context.

Condition No 13

17. The submitted Biodiversity Protection and Enhancement Strategy was not accompanied by an Implementation Plan. The Council indicate that this information was provided separately however it should be formally included within an updated report.
18. While ideally this should be in one place via an updated report, the Council has not explained why the separate documents could not be tied to the approval details and itemised within the decision notice accordingly.
19. Therefore, the submitted details would comply with the relevant provisions of Policy CS3 of the CS and Policy DM4 of the DMP. Taken together, and amongst other things, these policies seek to ensure that developments conserve and enhance biodiversity within the borough.

Other Matters

20. The appellant has expressed concerns regarding the time taken to reach a decision by the Council during the application process. Whilst this must have caused the appellant some distress, this does not materially affect my consideration of the planning merits of the appeal proposal.
21. I have also considered the various other concerns raised by interested parties, however, none of the other matters raised outweigh or alter my conclusion on the main issues. As I am dismissing the appeal for other reasons, I have not pursued these matters further.

Conclusion

22. While I have found the submitted detail in respect to condition Nos 7 and 13 to be acceptable, for the reasons given above, I conclude that the appeal does not meet the requirements of condition Nos 6, 12 and 14.

23. As such, the proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR