



Appeal Decision

Site visit made on 18 April 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal Ref: APP/Y3615/W/22/3306820

32 Queen Eleanors Road, Surrey, Guildford GU2 7SL

- 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 W Gong against the decision of Guildford Borough Council.
 - The application Ref 22/P/01123, dated 27 June 2022, was refused by notice dated 12 September 2022.
 - The development proposed is described as the change of use of the annexe to class C3 independent dwellinghouse.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr W Gong against Guildford Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. Since the appeal was submitted the Council adopted the Guildford Borough Local Plan: Development Management Policies on the 22 March 2023 (LPDMP), which forms part of the development plan, as well as the Parking Standards for New Development Supplementary Planning Document (adopted March 2023). The Council have confirmed which policies are now in place and the appellant has had opportunity to comment on this. I will therefore reference the revised policies in my decision.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area, and on the Thames Basin Heaths Special Protection Area (SPA); and whether the proposed development would provide acceptable living conditions for future occupiers with specific regard to private outdoor space.

Reasons

Character and appearance

5. The appeal site is within a suburban residential area with a mix of dwelling types and sizes throughout, although the majority are traditional in design. Queen Eleanors Road is defined by two-storey detached properties on well-proportioned plots set back behind off-road parking or front gardens. This

- provides a reasonably spacious street scene within an area of otherwise dense housing.
6. The proposal would not physically alter the elevations of the appeal property or the existing division of the frontage and rear garden. It is appreciated therefore the proposal would not significantly alter the overall visual appearance of the appeal site.
 7. However, the character of an area is related to its use as well as how it visually appears. The creation of 2 separate dwellings would intensify the use of the appeal site by providing accommodation for 2 separate households, with an increase in comings and goings likely to result from separate households holding separate schedules. It would also increase the amount of residential paraphernalia, such as bins, as well as the intensity that the off-road parking and garden spaces would be used. Thus, the proposal would create a more cramped and confined environment for both the 2 dwellings, which would be out of keeping with the spaciousness of Queens Eleanors Road, which would harm the overall character and appearance of the area.
 8. I note the Inspector in the previous appeals (APP/Y3615/W/21/3281892 and APP/Y3615/W/21/3284335) drew comparable conclusions in relation to the character and appearance of the area when assessing the schemes before them.
 9. In the main the example of the developments within the area identified by the appellant, relate to large extensions to existing homes and newly built dwellings, or are located on roads with a character distinct to Queen Eleanors Road. The appellant also referred to 3 other appeals¹, and although they are within Guildford borough, they are some distance away from the appeal site in areas which have different characteristics and attributes.
 10. Whilst consistency is important, each case must be considered on its own merits and the examples given merely indicate to me that the effect on character and appearance of an area needs to be determined in the light of the specific circumstances and context of each case. Overall, I am not persuaded that either the examples of nearby development or the 3 appeals are directly comparable to the proposal before me.
 11. In conclusion, the proposed development would have a moderately harmful effect on the character and appearance of the area. It would not, therefore, comply with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites (LPSS), and Policy D4 of the LPDMP insofar as they require new development to be of high-quality design which responds and contributes to the local character.

SPA

12. The SPA is a network of heathland sites that provide habitat for 3 internationally important bird species; woodlark, nightjar, and Dartford warbler. These birds nest on or near the ground and, as a result, are very susceptible to predation by animals, and to disturbance from recreational use, especially walking and dog walking. As the appeal site falls within the 400m – 5km zone of influence of the SPA and would create a new residential dwelling, it is likely that the proposals contribution to the increase in population could

¹ APP/Y3615/W/19/3231989, APP/Y3615/W/16/31585280, and APP/Y3615/W/21/3276190

lead to an increase in visitor and recreational pressure within the SPA. Given the susceptibility and vulnerability of the qualifying features of the SPA to such a use, it cannot be concluded that the development would not adversely affect the integrity of the protected sites in combination with other projects.

13. The Council's SPA Avoidance Strategy 2017, endorsed by Natural England, provides for contributions to the Council's Suitable Alternative Natural Greenspaces (SANG) and Strategic Access Management and Monitoring (SAMM) to mitigate the effect of development on the SPA. The appellant has submitted a section 106 agreement which aims to secure the appropriate contributions for the SANG and SAMM. However, it has not been fully executed as the Council has not signed it and therefore it cannot be relied on to secure the contributions and thus mitigate any adverse effect the proposal would have on the SPA.
14. As I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the main parties. Nonetheless, the section 106 agreement would have made adequate provision for the SPA contribution if it were executed, as the Council have agreed that such an approach is acceptable to ensure compliance with LPSS Policy P5, LPDMP Policy P6 and South East Plan Policy NRM6 insofar as they seek to protect priority species and habitats.

Living conditions

15. Due to the topography of the area, the rear garden to many properties along Queen Eleanor's Road, including the appeal site, are at a lower level to the main house. This means raised terraces and patios to the rear of houses are common and along with upper floor windows, provide views of neighbouring gardens over the otherwise solid boundary treatments. This means the privacy of the rear gardens of many properties within the locality is not complete, often with only the area directly behind the dwelling or at the far end of the garden not overlooked.
16. The proposal would emulate this with the rear gardens for both properties. The inclusion of privacy screening and hedge planting to the rear of the appeal property, along with the set-back position of the upper floor windows would provide an area of privacy outdoor space immediately to the rear of each proposed dwelling. Although this would not be large it would be adequate and not disproportionate to the overall size of the individual dwellings or their gardens. This would provide a reasonable degree of private open space for future occupants commensurate with other properties in the areas; and the proposed privacy screening and hedging, could be secured by condition.
17. Therefore, the proposed development could provide adequate private outdoor space to ensure acceptable living conditions for future occupiers. It would comply with LPDMP Policy D5 and the guidance within the Residential Extensions and Alteration Supplementary Planning Document insofar as it they seek new development to provide appropriate private outdoor space.

Other Matters

18. That the annex is capable of division from the main dwelling, in terms of internal layout and provision of facilities does not mitigate the harm identified in the first and second main issues.

19. It is also noted that the proposal would not harm the living conditions of future and existing occupants by providing accommodation in accordance with minimum space standards, adequate parking provision, and would not present a flood risk. However, these constitute a lack of harm, and are therefore neutral factors so do not weigh for or against the proposal.
20. The amendments to the scheme undertaken in light of pre-application advice are noted and proactively following such advice should be condoned. Nevertheless, I have a duty to deal with the scheme before me.
21. Objections have been raised in relation to the potential use of the appeal site for a house of multiple occupancy. However, this does not form part of the proposed development and so does not impact the planning merits of the case.

Planning Balance

22. The appellant disputes that the Council can provide a 5 year housing land supply (5YHLS), stating that within appeal decisions APP/Y3615/W/22/3298341 and APP/Y3615/W/22/3298390, it has been shown to only have a 3.37 year supply. Yet, this figure is not specifically quoted in either appeal. It is also noted that the main parties within both appeals used data from 1 April 2021 to calculate the housing land supply. The Council have now issued the Land Availability Assessment 2022 (LAA), which uses base-data from 1 April 2022, and this confirms that there is a 6.46 year supply. As the more up to date figures are within the LAA I consider this the more accurate assessment in this case.
23. Nevertheless, even though the Council has evidenced a 5YHLS, the National Planning Policy Framework (the Framework) still seeks to boost the supply of homes and make more efficient use of land in accessible locations. The proposal would provide a net increase of 1 home in an accessible location. This contribution to the windfall element of the Council's 5YHLS, along with the associated economic and social benefits, attracts only modest weight based on the small scale of the scheme.
24. However, housing provision should not come at the cost of good design in relation to its surroundings, or the protection of priority species and habitats, both positions supported by the Framework. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.

Conclusion

25. Whilst I have found for the appellant in relation to the living conditions of future occupants. This would be a lack of harm and thus, by definition, is incapable of weighing against the harm that I have found regarding the character and appearance of the area and the SPA.
26. Consequently, the appeal scheme would conflict with the development plan as a whole. There are no material considerations, including the Framework, worthy of sufficient weight, which would indicate a decision otherwise. The appeal should, therefore, be dismissed.

RJ Redford

INSPECTOR