



Appeal Decision

Site visit made on 5 April 2023

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 MAY 2023

Appeal Ref: APP/P3610/W/22/3307343

289 London Road, Ewell, Surrey KT17 2BZ

- 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 Jonathan McDermott, Open VU against the decision of Epsom and Ewell Borough Council.
 - The application Ref 22/00966/FUL, dated 30 June 2022, was refused by notice dated 22 August 2022.
 - The development proposed is erection of 3-bedroom detached dwelling following the demolition of existing garage (amended scheme).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Jonathan McDermott of Open Vu against Epsom and Ewell Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. The Council advised that a neighbour adjacent to the appeal site was not notified of the planning application. The neighbour's comments have been forwarded to this appeal, and the main parties were offered an opportunity to comment. I am therefore satisfied that no one has been prejudiced by this matter.

Main Issues

4. The main issues are the effect of the proposed development upon the character and appearance of the area; and whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to the provision of internal space.

Reasons

Character and appearance

5. The appeal site is located within a residential area. Properties along this section of London Road opposite Nonsuch Park are predominantly, but not exclusively, two storey semi-detached buildings with modest front gardens; and are well set back from the road. Nevertheless, building lines are consistent.

6. The gaps between the built forms of pairs of semi-detached properties with shared hipped roofs make a positive contribution to the open character of the area, notwithstanding side garaging. Save for No.289 which has gabled side elevations, detached properties reflect the prevailing hipped roof forms in their design and/or the separation distances between built forms. These factors combine to make a positive contribution to the character of the area.
7. The appeal site is located between semi-detached property forms at 289-291 London Road (Nos. 289-291), and 285-287 London Road (Nos. 285-287), a space which is currently occupied by a garage and parking spaces. The proposed dwelling would be detached with a pitched roof, and thus, while replicating features of No.289, it would be incongruous with the prevailing character of the area, even though there are other examples of detached properties and pitched roofs within the wider area.
8. The principal elevation of the proposed dwelling would align with the frontage of Nos.285-287, and thus be in keeping with the wider area. Although it would have a similar ridge height and pitched roof design to Nos.289-291, it would be sited well behind the building line of those properties.
9. Moreover, Nos. 289-291 have distinctly different design features to the prevailing character. Their principal elevations include two storey projecting square bays. Furthermore, their siting is well forward of the prevailing building line. Due to their design, scale, height, width, depth and siting, this pair of semi-detached properties create a massing that dominates the street scene at this particular point along London Road. This massing is alleviated by the separation distances between the two-storey built forms to either side. Due to its siting, scale, height, width and depth, and its proposed roof design, the proposed dwelling would result in a two-storey built form and massing that would substantially close the separation between buildings; and would result in a cramped appearance within the immediate street scene, notwithstanding a public footpath adjacent to No.287.
10. There is an extant permission for development to the rear of Nos.289-291, allowed on appeal¹. This scheme was under construction at my visit and is accessed from the side of No.291. This scheme comprises a row of three terraced properties, which would comprise further built form in the immediate locality. The proposed dwelling would be sited close to the boundary to this site, and this would exacerbate the cramped appearance of the proposed development within the immediate area.
11. These factors would combine with the overall scale and siting of the proposed dwelling to result in overdevelopment of the immediate area. Consequently, the overall pattern of development in the area would be harmed as a result of the proposal.
12. My attention is drawn to other property types along London Road. However, I do not have full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. Nevertheless, I visited those which were referred to. Whilst they demonstrate different property types, they were not comparable to the appeal site in terms of the relationship with neighbouring built forms. Many examples served to demonstrate roof designs that respected the prevailing

¹ APP/P3610/W/18/3215222

character of open gaps at the upper level. Those examples with pitched roofs only served to demonstrate the harm arising to the open character through the loss of gaps at the upper level. In any case, I have determined the appeal on its own merits in the context of the surroundings of the appeal site.

13. I therefore conclude that the proposed development would harm the character and appearance of the area, in conflict with Policies CS1, CS5 of the Epsom and Ewell Borough Council Core Strategy 2007 (CS); Policies DM9 and DM10 of the Epsom and Ewell Borough Council Development Management Policies Document 2015 (DMPD); and the Epsom and Ewell Borough Council Single Plot and other types of Residential Infill Development Supplementary Planning Guidance 2003. Taken together, these policies and guidance seek to ensure that new development achieves a high-quality sustainable environment; reinforces local distinctiveness; positively contributes to the character and appearance of the area; and relates well to its setting and surroundings.
14. It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework), which seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Living Conditions

15. Drawings² submitted with the planning application detail the layout of the ground and first floors of the proposed dwelling. A further drawing³ shows the proposed layouts for the ground floor and first floor, together with a schedule which shows a total of some 83 sq.m. The Council contends a lower figure, of some 82 sq.m. Regardless of this dispute, the proposed floorspace would be marginally short of the minimum standard of 84 sq.m as set out in Technical Housing Standards – nationally described space standard 2015 (THS).
16. The appellant states that the loft space would provide some further 30 sq.m and thus the required standard would be met. However, no substantive evidence has been submitted with the planning application, nor to this appeal, to detail any floorspace within the roof space. Consequently, I cannot be certain that the proposal would provide an acceptable level of internal space to meet the relevant standard.
17. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupiers, with particular regard to the provision of internal space.
18. The proposed development fails to comply with the THS, and therefore it conflicts with Policy DM12 of the DMPD which seeks to ensure that all new housing developments comply with relevant standards, in order to ensure that future occupiers are provided with sufficient space to meet their day-to-day activities and needs. In addition, it conflicts with paragraph 130 of the Framework which seeks to ensure a high standard of amenity for future users.

² PL21e and PL21f

³ PL50c: Proposed Areas

Other Matters

19. The appellant suggests that the proposal would result in wider public benefits in the form of new sustainable development, although there is no substantive evidence before me to demonstrate this.
20. Set against the harm identified there would be limited benefits associated with the proposal. The economic benefits arising from the construction process would be temporary and the additional expenditure generated from a household would be of a small scale. The proposal would support the government's objective to significantly boost the supply of homes. Given the scale of the scheme, an additional unit would be a small contribution. However, this would be a significant benefit in the context of a shortfall in the Council's five-year housing supply.
21. The appellant refers to previous decisions and cites case law⁴ which underpins the need for consistency in decision making. The planning history refers to a consent for a two bedroomed attached dwelling granted in 2007 and renewed twice, though the last consent expired in 2016. However, no details of that expired permission have been submitted in evidence, such that a comparison between schemes could be made. So, whilst the consistency of decision making is important, I do not have evidence before me regarding detailed comparisons to the expired consent, such that would alter my conclusions on the main issues. In any event it is important to note that there have been material changes in the circumstances surrounding the site and in the context of local and national policy since the last renewal of the attached dwelling was permitted in 2013.

Planning Balance

22. The CS and DMPD date from 2007 and 2017 respectively, but the weight attached to their policies does not depend solely upon their age. Paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. In this regard, the policies seeking to ensure that developments are sympathetic to local character and provide satisfactory amenity for future occupiers are well supported by the Framework. Therefore, the identified conflict with the development plan is attributed significant weight.
23. As the proposed development conflicts with the development plan as I have found above, there would be a conflict with the development plan as a whole.
24. There is no dispute between the main parties that the Council cannot currently demonstrate a five-year supply of housing, with the Council acknowledging a significant shortfall. In these circumstances, footnote 8 of the Framework applies, whereby the policies which are most important for determining the application are deemed to be out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this case, there are no relevant Framework policies that protect areas or assets of particular importance that provide a clear reason for refusal.

⁴ Appellant's cited cases - Mann LJ in *North Wiltshire District Council v Secretary of State for the Environment* (1993) 65 P & CR 137; *R (Midcounties Co-Operative Limited) v Forest of Dean District Council* [2017] EWHC 2050; *Baroness Cumberlege v Secretary of State for Communities & Local Government* [2017] EWHC 2057

25. The benefits associated with the proposal as referenced above, weigh in favour of the scheme. However, the adverse impacts I have found would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, and accordingly, the presumption in favour of sustainable development does not apply.

Conclusion

26. For the reasons given, I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with the development plan, and the appeal is dismissed.

J Moore

INSPECTOR