



Appeal Decision

Site visit made on 12 April 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 MAY 2023

Appeal Ref: APP/P3610/W/22/3309851

81 College Road, Epsom KT17 4HH

- 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 Mark Dickinson against the decision of Epsom & Ewell Borough Council.
 - The application Ref 22/01028/FUL, dated 1 July 2022, was refused by notice dated 6 September 2022.
 - The development proposed is erection of a 3-bed, detached 1½ storey family dwelling with landscaping and other associated works. (Use Class C3.)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a revised drawing no. 1447-351-2 'East context elevation proposed', which is different from the version submitted with the planning application. The revised version shows an extended context elevation of the proposed development in the street-scene but does not otherwise change the original proposal. Therefore, no parties would be prejudiced by me taking account of this revised drawing in my decision.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding area, including the adjacent protected tree.

Reasons

4. The area surrounding the appeal site is suburban and residential with a mix of detached and semi-detached houses of traditional appearance. There is some variety of design and layout near the appeal site where more recent properties have been built. However, the predominant character of the street and wider area is linear frontage plots with generous rear gardens, many of which include mature trees. These features make a positive contribution to the spacious and verdant character and appearance of the area.
5. While of irregular shape, the tree that is subject to a Tree Preservation Order (TPO) to the rear of the appeal site is particularly large and prominent. It is an important feature in the verdancy of the rear gardens.
6. While set in from the boundaries of the site, the proposed plot and the resultant one at No 81 would be considerably smaller than those nearby and

would leave limited space for landscaping. This would be incongruous with the large linear verdant plots they would be seen with and would appear cramped in comparison. These changes would harm the character and appearance of the surrounding area.

7. The proposed house would be sited very close to the protected oak tree. The overall size of the new dwelling's garden would be small. Therefore, while most of the garden would not be close to the tree, it is probable the area immediately under the tree would be used for activities such as sitting out or play. This would be facilitated by a French window opening directly onto it from a habitable room. Notwithstanding the orientation of the plot, the proximity of the tree means this area would be overshadowed. For the same reason, shade would also restrict natural light into the habitable room under it, although not affecting the rest of the house. The affected room would be single aspect with no alternative natural light source. The appellant's arboricultural report provides little evidence to the contrary. These issues are likely over time to lead to pressure for the tree to be reduced on the side facing the appeal site, which would aggravate its already irregular appearance, causing further harm to the character of the area.
8. Previous pruning of the protected oak was necessary to improve light into gardens. An equivalent level of pruning in future would be unlikely to address the additional issues arising from the proposed development. The Council's assessment at the time found little scope for an overall crown thinning of the tree and noted its already asymmetrical appearance. Considering this, I find limited evidence future reduction sufficient to mitigate the effects of the appeal proposal would be feasible. I accept incursion of the proposed building into the Root Protection Area of the tree falls within generally acceptable limits, such that the root system of the tree would not be harmed. I also note the measures proposed to protect the tree during construction and for underground services, which could be secured by condition were the appeal to be allowed.
9. The residual gardens at Nos 83 and 87 College Road remain larger than would be the case at No 81. The context for the new houses at Nos 137, 139 and 141 Albert Road is different because they do not front onto Copse Edge Avenue. Whilst these developments have resulted in some smaller plot lengths near the appeal site, these do not typify the character of the area surrounding it.
10. The proposed dwelling would be subordinate in scale and height to No 81 College Road. The proposed full-length glazing would be in proportion with the rest of the house. The extent of flat roof on the single-storey element would not detract significantly from the mainly hipped appearance of the principal roof. The house would therefore be broadly similar in height, roof-form and appearance to No 46 Copse Edge Avenue, so would complement its immediate neighbour despite differences with houses in the rest of the street. The space between that house and the proposal would be comparable to that between No 46 and 44 Copse Edge Avenue. The plot width would not be significantly different from others nearby. Planting would provide some screening in time, which could be secured by condition were the appeal to be allowed. These aspects of the design would provide a degree of integration into the street scene on Copse Edge Avenue, which has a slightly tighter pattern of development than College Road. However, these factors are not sufficient to mitigate the harm to character and appearance I find.

11. For the above reasons, I conclude the proposed development would have a significant harmful effect on the character and appearance of the surrounding area, including the adjacent protected tree. This is contrary to Policies CS1 and CS5 of the CS¹, and Policies DM5, DM9, DM10 and DM16 of the DMPD². These policies require high quality design that protects and enhances the built environment, is compatible with local character and respects the local distinctiveness of a street. They also recognise trees as a landscape feature important to the character and appearance of an area.

Other Matters

12. The proposal would make a modest contribution of one dwelling. It would also make a modest contribution to local economic growth during the construction process and through future occupiers' use of local services and facilities including tax revenue. The house would be within walking distance of local shops, thereby helping to promote active travel. I attribute limited weight to these benefits, which are considered in the overall planning balance below.
13. While there would be benefits to biodiversity and energy efficiency, given the scale of the scheme these would be limited and attract little weight.
14. The Council is satisfied with regard to the living conditions of neighbours and future occupiers, and the loss of trees other than the protected oak. Even if there would be no harm, these would be neutral factors and would not weigh in favour of the scheme.
15. I note the proposal's design has evolved since a previous refused planning application³ and to take account of subsequent pre-application advice sought from the Council. However, I have considered this appeal on its merits based on the evidence before me.
16. Policies CS1 and CS5 of the CS, and Policies DM5, DM9, DM10 and DM16 of the DMPD are consistent with the Framework where it requires development to add to the overall quality of an area, have a visually attractive layout and be sympathetic to the surrounding built environment; recognises the important contribution made by trees to the character of the urban environment; and states development that is not well designed should be refused.
17. The conflicts with the policies of the development plan set out above lead me to conclude there is conflict with the development plan as a whole given its consistency with the Framework. I attribute significant weight to this conflict.

Planning Balance

18. The Council accepts it is falling short of its housing delivery requirement and is not able to demonstrate a five-year supply of housing land. Even if I take the appellant's figures on housing supply and the Housing Delivery Test, I consider the level of shortfall to be significant. Paragraph 11(d) of the Framework states that, where the policies which are most important for determining an application are out-of-date (which includes situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would

¹ Epsom & Ewell Borough Council (EEBC) Local Development Framework Core Strategy

² EEBC Development Management Policies Document

³ Reference 21/01287/FUL

significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole.

19. The proposal would accord with the Framework where it seeks to significantly boost the supply of housing and make effective use of small sites on previously developed land within existing settlements. It would also contribute to the economic, biodiversity and energy efficiency aims of the Framework. However, as the scheme is for one dwelling these factors attract limited weight. The scheme would be contrary to paragraphs 130, 131 and 134 of the Framework where they require development to add to the overall quality of an area, have a visually attractive layout and be sympathetic to the surrounding built environment. I give this significant weight. The adverse impacts of the proposal arising from the harm to character and appearance would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole.

Conclusion

20. Therefore, the proposal conflicts with the development plan as a whole. There are no other material considerations, including the Framework, to outweigh that conflict. For these reasons, I conclude the appeal should be dismissed.

C Carpenter

INSPECTOR