



Appeal Decision

Site visit made on 19 June 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2023

Appeal Ref: APP/Y3615/W/22/3310007

6 Lower Edgeborough Road, Guildford, Surrey GU1 2DT

- 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 Simon Gruber against the decision of Guildford Borough Council.
 - The application Ref 21/P/01938, dated 9 September 2021, was refused by notice dated 24 May 2022.
 - The development proposed is described as the 'conversion of existing 6 flats into single dwelling with alterations and extensions comprising part two storey / part single storey rear extension, single storey side extension to provide garage, detached garden room to rear of garage together with raised decking at rear and swimming pool following demolition of existing rear extensions and detached garage.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council adopted the Local Plan Development Management Policies (DMP) on the 22 March 2023. The Council have set out the relevant policies in their written representations and as such the appellant has had opportunity to comment. There is no breach of natural justice therefore in my referring to these policies.

Main Issues

3. The main issues in this case are:
 - the effect of the proposed development on housing supply in the Borough;
 - whether the proposal would meet sustainability and carbon reduction requirements;
 - the effect of the proposal on ecology; and
 - the effect of the proposal on the amenity value of existing trees.

Reasons

Housing Supply

4. Policy H1 of the Guildford Borough Local Plan: Strategy and Sites 2015-2034 (2019) (LP) sets out that development that results in the net loss of existing housing (C2 use class or C3 use class accommodation or traveller accommodation) will not be permitted.

5. The appellant disputes that the proposal would result in the loss of 5 residential units, given that 2 of the existing 6 units have not formally been made lawful. There is no substantive evidence before me to indicate that the Council would take action on this matter, however, in any event, the loss of 3 C3 residential units is contrary to this policy.
6. I note that the Council currently can demonstrate a 5 year housing land supply, however it does not follow that the loss of C3 units would then be acceptable, given the Government's broader objective of protecting and significantly boosting the supply of homes. The development would result in needed new family housing; however, this would be at the expense of smaller units, which the Council confirm are also in need.
7. As such, the proposal would result in the loss of housing supply within the Borough and conflict with the protection of existing C3 housing requirements of LP Policy H1.

Sustainability

8. LP Policy D2 requires new development to take sustainable design and construction principles into account, including by adapting to climate change and reducing carbon emissions. The overall approach is to ensure that the Borough contributes to achieving the UK's carbon reduction and renewable energy commitments.
9. The policy states that smaller developments should include information proportionate to the size of the development in the planning application, however it does state that applications for development, including refurbishment, conversion and extensions to existing buildings should include information setting out how sustainable design and construction practice will be incorporated.
10. This is reiterated in the Supplementary Planning Document 'Climate Change Sustainable Design, Construction and Energy' (2020) which suggest that non-major developments can submit a completed questionnaire in order to satisfy the requirement for adequate, proportionate information.
11. It is stated that an air source heat pump is intended to be provided, however, this alone is insufficient information, for example with regards to carbon minimisation or water efficiency. As such, whilst I acknowledge that the development would meet modern building regulation standards, it is not established that the development would incorporate measures to secure suitable carbon reductions and sustainability improvements. The SPD makes it clear that the information should be provided with the planning application at the point of submission and should inform emerging proposals and help to steer them towards sustainable outcomes.
12. As such, I do not consider that a condition requiring this information would be appropriate, given the impact it could have on the design of the property.
13. I therefore find that the proposal does not meet the sustainable design, climate change adaption and carbon reduction goals of LP Policy D2 and DMP Policies D14, D15 and D16, and the advice set out in the SPD.

Ecology

14. The appeal site is not subject to any policy designations relating to ecology, and I have not been made aware of any nearby sites designated for their ecological qualities. Nevertheless, given the age of the property and the nearby mature trees and verdant character of the wider area, the Council suggest that there is potential for bat roosts to be present within the building. The appellant does not dispute this, and it is noteworthy the submitted Planning, Design & Access statement identifies that there '*is potential for the existing building to be home to bats*'. From what I observed on site regarding the state of the roof, with numerous small gaps and uneven roof tiles present, I am indeed satisfied that there is potential for the presence of protected species.
15. Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it "... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"
16. LP Policy ID4 seeks to protect and enhance biodiversity in the borough. It states that permission will not be granted for proposals that are likely to materially harm the nature conservation interests of local sites unless clear justification is provided that the need for development clearly outweighs the impact on biodiversity. DMP Policy P6 sets out that development proposals are required to protect and enhance priority species and habitats.
17. Some enhancement measures such as improved landscaping or bat/bird boxes could be secured through a condition. However Circular 06/2005¹ states that, '*it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*' The Circular advises that surveys should be carried out before planning permission is granted.
18. Therefore, on the balance of probabilities, I consider it likely that protected species are present and may be affected by the proposed development. In the absence of any survey information, it is not possible to establish if, or to what extent, protected species would be affected by the proposal. Therefore, it is appropriate to take a precautionary approach. Having regard to the Circular, it would not be appropriate to require surveys or further investigation by planning condition were I be minded to allow the appeal.
19. The impact of development nearby on older properties on the ecology of the area does not alter the requirements of local and national policies with regards to this development site.
20. Accordingly, the proposal would be contrary to the biodiversity protection and enhancement goals of LP Policy ID4, DMP Policy P6 and the National Planning Policy Framework (the Framework), which states that planning decisions should protect and enhance sites of biodiversity value.

¹ Circular 06/2005: Biodiversity and geological conservation - statutory obligations and their impact within the planning system

Trees

21. The existing property is a large Victorian villa located on Lower Edgeborough Road, which is characterised by established mature trees and a verdant and landscaped appearance. The appeal site is located within the Waterden Road Conservation Area (CA). The Waterden Road Conservation Area Study and Character Appraisal (2003) sets out that the high level of natural and mature vegetation in the area 'make an essential contribution to the CA'.
22. An Arboricultural Survey² was submitted with the application which identified that the existing site contains a number of trees, which are identified as category B or C.
23. The large category B trees at the frontage of the site, located on the boundary, will be unaffected by the development. These contribute significantly to the verdant street scene.
24. The proposed development, specifically the swimming pool at the rear of the property, would encroach into the root protection area of one category C tree (identified as T6C in the tree constraints plan), sited just outside the application site, next to the appeal property's existing detached garage. From what I observed on my site visit, it appeared that this tree may have been removed as part of the redevelopment of the adjoining site.
25. In any case, I am satisfied, from what I have read and seen on my site visit, given the unremarkable and low quality of trees at the rear of the site, that they do not contribute positively to the character of the street.
26. Were I minded to approve the scheme, a condition to ensure the retention and protection of the remaining trees, in addition to appropriate landscaping would be appropriate. The retained trees would maintain the existing verdant character of Edgeborough Road and the surroundings. In this respect there is no conflict with the general protection of local character, including the historic environment, of LP Policies D1 and D3 and the Framework. I am satisfied therefore that in this respect the development would preserve the character and appearance of the CA, in accordance with Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
27. The Council also refer to LP Policy ID4, however as this relates to biodiversity, it is not determinative with regard to this main issue.

Other Matters

28. The proposed development is appropriate in its scale, design and siting, and I am satisfied that in this respect the development would preserve the character and appearance of the CA, in accordance with Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. It is noteworthy that the Council found no harm in this respect.
29. The reference to 'significant reductions' in LP Policy H1 relates to site allocations, and as such is of little relevance to this proposal.
30. I acknowledge that the proposed development would lead to a visual improvement to the existing slightly tired building. However, even if the Council do not consider the demolition and replacement of the building to be

² By RMTTree Consultancy Ltd, 16 July 2021

acceptable, it has not been proven that the redevelopment and improvement to the building would not be possible without the loss of units, notwithstanding the ecology and sustainability issues. As such, I give this little weight.

31. As such, these benefits attract minor weight which does not outweigh the harm identified.

Conclusion

32. 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

B Phillips

INSPECTOR