



Appeal Decision

Site visit made on 02 June 2023

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2023

Appeal Ref: APP/P3610/W/22/3312147

39 Manor Green Road, Epsom KT19 8RN

- 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 Ian Horner against the decision of Epsom and Ewell Borough Council.
 - The application Ref 22/00695/FUL, dated 01 June 2022, was refused by notice dated 16 September 2022.
 - The development proposed is 'Change of use of gym/ yoga studio to residential to create a 1 bedroom dwelling with associated garden and parking'.
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Decision

1. The appeal is allowed and planning permission is granted for the 'Change of use of gym/ yoga studio to residential to create a 1 bedroom dwelling with associated garden and parking' at 39 Manor Green Road, Epsom KT19 8RN in accordance with the terms of the application, Ref 22/00695/FUL, dated 01 June 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development on the application form was amended following submission of the application. I have utilised the new description which better reflects the development proposed. As such, I have referred to the amended description for the purposes of this appeal.
3. The appeal site has an extensive planning history since 2013 which is relevant to this appeal. There have been three applications refused for a one-bedroom bungalow (Council ref. 13/00427/FUL, 13/00926/FUL, 15/00529/FUL). No details of any subsequent appeal have been submitted. Following that, a certificate of lawful proposed development was issued for the erection of the outbuilding which now forms the subject of this appeal (18/00250/CLP). In 2020 an application was then refused (Council ref. 20/00252/FUL) and was dismissed at appeal (PINs ref. 20/00525/FUL) which sought to convert the existing outbuilding into a separate dwelling, akin to the current appeal.
4. The previous similar appeal turned on the living conditions of future occupants of the proposed development and the character and appearance of the area. The main difference between that appeal and the current scheme was that the plans did not distinguish the two separate planning units which would be created by subdivision and there was no defined subdivision of the plot/ garden area. As such, the appeal was dismissed on the basis of a lack of privacy and

adequately defined outdoor amenity space for future occupiers. This issue has been overcome in the current appeal by way of clear subdivision of the plots and the Council did not cite a reason for refusal in respect of living conditions. I have had regard to the previous similar appeal and have referred to it throughout this decision letter, but I have considered the appeal on its individual merits.

Main Issues

5. The main issues are whether the principle of residential development is acceptable within the proposed location, and the effect of the proposal on the character and appearance of the area.

Reasons

Principle of development

6. The appeal proposal seeks to subdivide the rear garden of the existing dwelling at 39 Manor Green Road and change the use of an existing outbuilding to residential use. 39 Manor Green Road is situated at the corner of Manor Green Road and Hamilton Close. It fronts Manor Green Road and its generous rear garden flanks Hamilton Close; the existing outbuilding is at the rear end of the garden and has an informal access onto Hamilton Close.
7. Policy CS7 of the Epsom and Ewell Core Strategy (CS), adopted 2007, seeks sufficient housing to meet local need and notes that it may be necessary to adjust the pace of housing delivery. Policy CS8 of the CS sets out the broad locations where new housing would be supported as within the defined built-up area of Epsom and Ewell as defined in the Proposals Map. The appeal site is within this area. Policy CS8 goes on to specifically support infill, redevelopment and conversion for residential uses, subject to the other policies in the Local Plan. The appeal site is an infill conversion and therefore accords in principle with these policies.
8. However, these policies are subject to other policies within the plan. Policy DM16 sets out a presumption against the loss of rear domestic gardens due to the need to maintain local character, amenity space, green infrastructure and biodiversity. This presumption is not absolute. It states that modest redevelopment of backland sites may be acceptable where it would have no adverse impact on garden land in terms of; amenity, green infrastructure, neighbours, vehicular access, and local character including the mass and scale of the development and trees/ shrubs.
9. The parties raise no issue in terms of adverse impact on the living conditions of occupiers of neighbouring property or vehicular access in relation to this or the previous similar appeal. The proposed dwelling is an existing building and therefore it would not result in the loss of green infrastructure and would be very likely to impact on biodiversity in any meaningful way.
10. In respect of mass and scale, the Inspector for the previous appeal made the following assessment, with which I concur:

"Within the parts of Manor Green Road and Hamilton Close nearest the site, the streets are predominantly characterised by the presence of detached and semi-detached 2-storey dwellings. Whilst chalet bungalows and a scattering of single storey bungalows also exist, there are no examples of dwellings whose scale,

form and design bears any resemblance to that of the studio. Without doubt therefore, a dwelling of the studio's design and in the studio's location would appear starkly at odds with the prevailing pattern.

The studio is however an existing building, and the development would not entail any changes to its external appearance. In this case therefore, the effect the development would have on the character and appearance of the area would depend largely on the extent to which use of the building as a separate dwelling, rather than as an outbuilding, was perceived.”.

11. The appeal scheme would conflict with policy DM16 in respect of scale. However, for the reasons set out below, it would not conflict with the overall aims of that policy in terms of character and appearance of the area (as addressed below) and therefore when read as a whole, the appeal proposal would not conflict with the relevant policies in principle.
12. In any case, the parties also acknowledge that there is an undersupply of deliverable housing land resulting in an unmet need. The relevant development plan policies for the supply of housing are to be regarded as out-of-date and the 'titled balance'¹ in favour of sustainable development applies.

Character and appearance

13. The Inspector for the previous similar appeal concluded that the proposal would have no adverse impact on the character and appearance of the surrounding area. The Appellant has suggested that the Council has thus repeated a previous reason for refusal without regard to the outcome of the appeal. The disproportionate scale and mass of the proposed dwelling itself is addressed above, as it was in the previous appeal. The Council's new in-principle objection to the scheme (addressed above) and apparent repeated reason for refusal arises from the proposed formal subdivision of the plot and therefore the effect on the characteristic grain, density and plot sizes of the area.
14. The appeal proposal would split the original garden size of the existing dwelling by just under half to provide a plot for the proposed dwelling (thereby overcoming the living conditions issue at the previous appeal). The resultant plots would be much smaller in depth than the gardens which serve the surrounding houses and, as the Inspector for the previous appeal noted, starkly at odds with the existing pattern of development.
15. However, this would not be particularly perceptible at ground level from within the various street scenes due to the corner plot location and relatively enclosed boundary treatments. As such, whilst the appeal proposal would introduce an out of scale dwelling and disproportionate plots; it would not appear intrusive or discordant within the public realm. Therefore, it would not unacceptably adversely impact the character and appearance of the area and would accord with policies DM9, DM10 and DM16 of the CS. These policies seek, amongst other things, high-quality design which integrates well with the character of the area.

Planning conditions

16. The Council did not supply suggested conditions with their questionnaire and although suggested conditions were referred to in their appeal statement

¹ National Planning Policy Framework (the Framework) paragraph 11 and FN8.

documents, there were none included. The Council did supply suggested conditions on 04 August 2023 in a document dated 31 July 2023. The Council suggested a total of 5 conditions to require that the development is commenced within 3 years, in accordance with approved plans, submission and approval of landscaping scheme, provision of cycle parking space and provision for refuse and recycling. I consider these conditions to be necessary and reasonable, and compliant with the requisite legal and policy tests to ensure high quality, sustainable design which takes place in a timely manner and in accordance with the approved plans.

Conclusions and planning balance

17. The appeal scheme conflicts with some of the specific detail of the relevant policies, however, it accords with the aims of the development plan when taken as a whole. Moreover, there is an unmet housing need to which the appeal scheme would make a very small contribution, which weighs in favour of the scheme whilst output.
18. Therefore, on balance, the appeal scheme would amount to sustainable development and the adverse impact of allowing the appeal would not significantly and demonstrably outweigh the benefits of doing so. The appeal is accordingly allowed.

Kim Langford Tejrar

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans; Site Plan, Block Plan, Elevations Plan, Proposed Ground Floor Plan, Roof Layout Plan, Site Layout Plan dated 10 May 2022, Site Location Plan, Tree Plan.
3. The development shall not be occupied until there have been submitted to and approved in writing by the local planning authority a scheme for hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
4. The development shall be occupied until details of secure bicycle parking facilities for occupants and visitors to the development have been submitted to and approved in writing by the Local Planning Authority. The facilities shall be fully implemented and made available prior to first occupation and shall thereafter be retained for such use.