



Appeal Decision

Site visit made on 20 September 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/P3610/W/23/3318006

72 Chesterfield Road, West Ewell KT19 9QP

- 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 James Flynn against the decision of Epsom and Ewell Borough Council.
 - The application Ref 22/01698/FUL, dated 24 October 2022, was refused by notice dated 22 December 2022.
 - The development proposed is the demolition of garage. Construction of bungalow.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on a) the character and appearance of the area; and b) nearby trees.

Reasons

Character and Appearance

3. Properties within the immediate vicinity of the appeal site are generally two storey dwellings that are set back within their plots and benefit from well sized rear gardens. This helps to establish an open and spacious character which is particularly evident on the south western side of Poole Road, where a number of properties with rear gardens have long, side boundaries with Poole Road. This also allows for trees and mature planting within rear gardens to have a positive, verdant contribution to the street scene. The appeal site itself forms part of just such a rear garden.
4. As is the case with other similar properties, the host dwelling has a number of existing outbuildings in its rear garden. There is a flat roof, timber clad building that occupies a part of the garden which would be retained by the host property. A double garage, with corrugated metal pitched roof and timber clad front, occupies the rear most part of the existing garden. This would be demolished as part of the proposal to make way for the new dwelling. Neither of these existing outbuildings is particularly noticeable or prominent and both are easily assimilated into the street scene.
5. In contrast, the proposed dwelling although only single storey would represent a larger and much more prominent structure. Together with its defined curtilage and associated domestic trappings such as its bin store and dedicated parking space, it would clearly be read as a separate dwelling. It would not be

viewed in the same way within the wider street scene as the existing garage or other outbuildings in similar positions on other similar plots.

6. As a separate dwelling it would neither reflect the scale, form nor position of other dwellings in its immediate vicinity. Furthermore, it would not have the associated plot size or layout to reflect the prevailing spacious pattern of the existing houses sitting in sizable plots with longer rear gardens. As such, the dwelling and its constrained plot would appear somewhat squeezed in and rather than positively contributing, it would have an unsympathetic relationship with its surroundings that would harm the character and appearance of the wider area.
7. I noted on my site visit that there are bungalows located in other nearby roads. Similarly, Chesterfield Road, and roads such as Lansdowne Road, have a perimeter block relationship with Chessington Road (B2200). However, neither of these factors inform the immediate context of the appeal site nor the relationship the site has with Poole Road. Furthermore, these dwellings and those on the north eastern side of Poole Road, further along from the appeal site, have a layout, plot size and relationship with one another that is commensurate with the character and pattern of development of the area. Thus, unlike the proposal, they assimilate acceptably into the street scene.
8. The main parties disagree over whether the proposal should be termed, 'backland' development. Regardless of how it is labelled, the proposal involves the redevelopment and loss of rear domestic garden. Policy DM16 of the Epsom and Ewell Development Management Policies Document 2015 (DMPD) seeks to prevent the loss of rear domestic gardens, due to the need to maintain, amongst other things, local character. There is no provision within the policy suggesting that it is only applicable to sites which are 'land locked' or that sites with a road frontage are excluded. In these circumstances, I see no reason why this policy would not apply to the current proposal.
9. Drawing all of the above together, I find the proposal to be harmful to the character and appearance of the area. Accordingly, it is contrary to Policies CS1 and CS5 of the Epsom and Ewell Core Strategy 2007 and Policies DM9, DM10 and DM16 of the DMPD. These policies, amongst other things, seek to protect the existing environments including rear domestic gardens, and ensure new developments have a high-quality design that reinforces local distinctiveness and makes a positive contribution to local character.
10. The proposal would also be contrary to the National Planning Policy Framework 2023 (the Framework), which amongst other things, seeks to ensure developments are well designed and sympathetic to local character.

Trees

11. Whilst this issue may not have been a reason for refusal for the previous proposals on the site, it is nevertheless a matter which has been raised in relation to the current case. I must therefore consider it accordingly.
12. The Walnut tree on the boundary between Nos. 68 and 70 Chesterfield Road would constrain part of the southwestern outlook from the garden of the proposed dwelling. Whilst the tree has the potential to grow larger, it is positioned a gardens width from the appeal site. Also, the windows on the rear elevation would be constrained by the proximity of boundary enclosures.

Therefore, it seems unlikely that the occupation of the proposed dwelling would lead to pressure for the reduction or removal of this particular tree.

13. At the time of my site visit the Lawson Cyprus tree in the garden of No.70 extended to the shared fence with No.72 but did not noticeably extend across the boundary. From my observations, given the position of this tree relative to the proposed dwelling, it seemed unlikely that the works to construct the building would be within its root protection zone. Despite this, the position and size of the Lawson Cyprus would undoubtedly result in some overshadowing of the proposed side garden and elevation. Some leaf and needle fall from the tree into the new garden could reasonably be expected.
14. The proposed side garden is not large and would provide the only space in which future occupiers could sit outside. It is also the area onto which the proposed bi-fold doors open. As such, over time the tree is likely to become something of an irritant to future occupiers. Accordingly, there would be a real prospect of there being pressure to remove or reduce this particular tree once the house was occupied. The appellant does not specifically refute the potential for this to occur nor the lack of suitable opportunities to secure a replacement.
15. Instead, it is the appellant's contention that as this tree is not considered worthy of formal protection by the Council, it is of lesser importance to the area. Whilst a tree may not reach the high bar of having a level of public amenity that warrants a Tree Preservation Order conferred upon it, it can nevertheless have a positive role within the wider area. As I have noted above, trees in neighbouring rear gardens collectively have a beneficial effect on the character of the area. The Lawson Cyprus within the rear garden of No.70, positively contributes to this beneficial effect.
16. I have no reason to believe that the Lawson Cyprus does not have many years of life remaining. As such, there is no reason to assume that it would not have ongoing benefits to the area, whereas its possible reduction or removal would cause harm to the verdant qualities, and thus character, of the area. Whilst a condition controlling construction methods and establishing protection for the tree's roots during this phase might be possible, such a condition would not protect it from the longer-term pressures I have identified above.
17. Therefore, on this second main issue I conclude that the proposal would be likely to cause harm to an existing nearby tree. Accordingly, the proposal would be contrary to Policy DM5 of the DMP, which insofar as is relevant to this appeal, seeks to protect existing trees and ensure new development does not result in a significant loss of trees unless suitable replacements are proposed.

Other Matters

18. The Council's appeal statement introduced the issue of incidental movement and activity associated with the proposed dwelling. Whilst such matters can be related to how a new dwelling is perceived, this is subtly different from the first reason for refusal, which related more to the physical characteristics of the proposal. Therefore, for the avoidance of doubt, I have not taken this matter into account in reaching my decision.
19. The proposal is said to comply with various requirements relating to matters such as private amenity space, neighbouring amenity, highways, ecology, refuse/recycling and surface water risk. Furthermore, it is pointed out that

there would be no harmful impacts in terms of flood risk or climate change. However, such matters would be a requirement of the development plan and therefore not factors that can weigh positively in the scheme's favour.

20. I acknowledge that the proposal is a revised scheme, designed to overcome previous concerns raised by the Council. The changes principally reduce the footprint of the dwelling with a consequential increase in garden area. However, the changes are not sufficient to overcome the identified harm.
21. Third parties have suggested, amongst other things, that the proposed development would cause harm to the living conditions of the occupants of neighbouring properties. I am aware of the Council's findings in this regard. That said, even if I were to find that the appeal scheme would not cause harm to the living conditions of these neighbours, my conclusions on the main issues would not change.

Planning Balance

22. The Council accepts that it cannot demonstrate a five-year housing land supply and so, Framework Paragraph 11(d) falls to be considered. For the purposes of this appeal, this indicates that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. The proposal would accord with the Framework's support for housing, for windfall sites and making efficient use of land. The dwelling would be reasonably well located to local services and facilities and there would be associated social and economic benefits although some of these would be limited by virtue of time and the scale of the proposal.
24. The provision of a single dwelling would make only a small numerical contribution towards housing supply. However, the extent of the area's current under provision puts added emphasis on all new housing developments, of whatever scale. Overall, the proposal therefore attracts considerable weight.
25. Notwithstanding the current shortfall in supply, the harms arising would have an adverse impact on the area for the lifetime of the development. The needs to achieve well-designed places and to ensure that development is sympathetic to local character and the environment are perennial and in direct compliance with the Framework. As such, this attracts substantial weight that significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework as a whole. The presumption in favour of sustainable development outlined in the Framework does not, therefore, apply.

Conclusion

26. Whilst there would be some beneficial aspects of the scheme, considered overall the development would cause harms which would conflict with the development plan when taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan.
27. For the reasons given, I conclude that the appeal should be dismissed.

Stewart Glassar
INSPECTOR