



Appeal Decision

Site visit made on 18 December 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 17.01.2024

Appeal Ref: APP/K3605/W/23/3324198

Waverley Lodge, Elgin Road, Weybridge, Surrey KT13 8SN

- 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 Rosario Rizzo against the decision of Elmbridge Borough Council.
 - The application Ref: 2022/3735 dated 13 December 2022, was refused by notice dated 24 February 2023.
 - The development proposed is erection of a detached two storey house with rooms in the roof space and dormer windows following demolition of existing house and garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2023. Although some of the paragraph numbering has changed, I do not consider that there are any material changes in the Framework, pertinent to this appeal proposal. It is not therefore necessary to seek the views of the Appellant or the Council on the revised Framework.

Main Issues

3. The main issues in this appeal are:
 - a) The effect of the proposed replacement dwelling on the character and appearance of the local area, including the setting of the locally listed building;
 - b) The effect of the proposal on the living conditions of the neighbours at Elgin Lodge, and
 - c) The effect of the proposal on protected species and habitats.

Reasons

Issue a) Character and Appearance

4. The existing property is a modest chalet bungalow with a detached garage on the north side of Elgin Road within a predominantly residential area. The property has the appearance of a bungalow at the front with a dormer at the rear to serve the first floor accommodation. The proposal would replace the existing dwelling with a larger dwelling comprising two storeys with rooms in

the roof. It would follow a Georgian design style with a crown roof and dormers to the front and rear to serve the second floor accommodation.

5. The principle of a replacement dwelling is not at issue, given the location of the appeal property within an existing built-up area. The Council has referred to the site being within the Heath Road Environs character sub area of Weybridge, but I agree with both the Appellant and the Council that the general description of that sub area does not fully correspond to the character and appearance of Elgin Road.
6. The properties on the south side of the road and to the west of the appeal site are primarily detached properties. Although many of the dwellings in the immediate vicinity of the appeal site largely fill the width of their plots and are of varying designs, they do generally follow a similar and regular eaves and ridge line. To the east of the appeal site, there is a much larger dwelling, Elgin Lodge, set back from the street frontage with a large front garden and also a side garden wrapping to the rear of the appeal site. I am advised that this is a locally listed building, a non-designated heritage asset. Beyond this property there is a smaller dwelling but also set back from the frontage, with a deep front garden. There is therefore some variety in the character and appearance of the local residential area, including in the surrounding side roads leading off Elgin Road.
7. The proposed dwelling, reflecting the limited size of the plot would sit forward of Elgin Lodge, and broadly in line with the building line maintained by the houses to the west. However, it would be significantly taller than the houses to the immediate west, both in terms of its eaves height as well as the ridge line. The increase in height and overall massing would also be exacerbated because of the dormer windows at roof level. It would not relate well to the street scene to the immediate west and to the south of the proposed dwelling; the new house would appear visually over prominent and incongruous in relation to the predominant pattern of development, in terms of scale and massing, to the west and south of the proposal.
8. Although the proposed massing would relate more to the massing of Elgin Lodge, this property is set much further back from the street frontage, with garden area around it. By comparison the scale and massing as well as the height of the proposed dwelling would be set much further forward and would appear overly dominant in street scene views. The proposed dwelling would not therefore relate well to the houses and development on either side as well as in the general locality, in view of its overall height and massing as well as its siting.
9. With specific regard to the effect of the proposed development on the locally listed building, there is no further information provided by the Council regarding the reasons for its local listing, although the Appellant has not disputed its designation and provided a heritage assessment with the application. One of the local residents has offered some helpful information about the property and its history, but I have not been directed to any published information. Paragraph 209 of the Framework advises that the effect of a development proposal on the significance of a non-designated heritage asset should be taken into account in determining an application and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

10. Elgin Lodge would appear to be one of the older buildings within the road set in its own grounds. I agree with the Appellant that there would be no harm to the building itself. However, its setting, whereby it is seen as a distinctive property set in its own grounds would be compromised, particularly when approaching from the east. The scale and massing as well as the forward siting of the proposed replacement dwelling would harmfully intrude into the current more open setting of this building. Whilst the Council did not raise this as a reason for refusal, I have found some harm to the setting of the building; this would therefore add to the harm I have already found to the street scene and to the character and appearance of the local area.
11. Taking these matters altogether, I consider that the proposed property would appear visually over dominant and intrusive in the street scene. It would therefore unacceptably detract from the attractive character and appearance of the local area.
12. I therefore conclude that the proposed replacement dwelling would unacceptably harm the character and appearance of the local area, including the setting of the locally listed building. This would conflict with Policies CS4 and CS17 of the Elmbridge Core Strategy (Core Strategy), Policy DM2 of the Elmbridge Development Management Plan (DM Plan) and the Framework, with particular reference to Sections 12 and 16, as well as the NDG, all of which amongst other matters, seek a high quality of design which respects the local context.

Issue b) Living Conditions

13. The garden to the adjoining dwelling to the east, Elgin Lodge, wraps around the eastern and northern boundary of the appeal site, with the existing dwelling set back towards its north east corner. There is a largely glazed conservatory running along the west side of Elgin Lodge. Because of the relationship of the appeal site with Elgin Lodge and its garden, I agree with the Council that there would be the opportunity for overlooking and therefore loss of privacy for the neighbours, from views out of the rear facing rooms in the proposed dwelling at first and second floors. This would harm the living conditions of the neighbours at Elgin Lodge.
14. However, the plans indicate that the two top floor rooms (Bedroom 4 and a gym) would run from front to back across the property, with windows both to the front and to the rear. The middle window would serve a bathroom. On the first floor, Bedroom 1 at the eastern end of the house would be served by 4 windows, two facing towards the front and two to the rear, and the next window would again serve a bathroom.
15. The proposed bedroom 2 on the first floor would only be served by rear facing windows. However, these windows would be at the western end of the proposed replacement house and therefore furthest away from the adjoining property. The opportunity for overlooking and loss of privacy would be reduced given the distance from these windows to the adjoining house, including the conservatory.
16. As a result of the proposed layout and were no other matters of concern and planning permission were to be granted, I consider that the rear facing windows in the rooms addressed above could be obscure glazed or alternatively detailed to ensure that there would be no overlooking and loss of privacy for

the immediate neighbours. I do not consider that such an approach would harm the living conditions of future occupants of the proposed property on the appeal site, because the bedrooms would still be served by windows with clear glass facing towards the front.

17. Subject to the imposition of conditions as set out above, I do not consider that the proposed dwelling would harm the living conditions of the neighbours at Elgin Lodge, with particular regard to overlooking and loss of privacy. There would be no conflict with Policy DM2 of the DM Plan as well as the Framework and in particular Paragraph 135 f), both of which amongst other matters seek to protect the amenities of existing and future occupiers.
18. I agree with the Council that in view of the siting in relation to the neighbouring property to the west, Romney, there would be no adverse impact on the living conditions of those neighbours, including in terms of loss of light and overshadowing, sufficient to justify withholding planning permission. I also consider that, notwithstanding the height of the proposed dwelling, there would be sufficient distance to properties further afield, including in Park Drive and Weybridge Park, so that there would be no adverse effect on the living conditions of these residents.

Issue c) Ecology

19. The application was supported by a Daytime Bat Potential Roost Assessment (PRA) dated August 2022 by Wychwood Environmental. This concluded that the bungalow and garage to be impacted by the works had a negligible potential to support roosting bats. This conclusion in respect of the existing property has been accepted by the Council, following the advice of the Surrey Wildlife Trust (SWT) and the Surrey Bat Group (SBG), and I have no reason to take a different view.
20. However, the same report by Wychwood Environmental referenced that *the moderate sized domestic gardens and tree lined roads within the local landscape provides habitats potentially suitable for roosting and foraging bats*. The report did not undertake a bat preliminary ground level tree assessment of the trees on site which are indicated to be felled in the Arboricultural report dated 1 January 2023 by APArboriculture, accompanying the application.
21. I accept that these trees are not particularly large trees but nonetheless, it has been indicated by the Appellant's ecologist and supported by the SWT that the site and adjacent areas offer potential habitats for bat roosting, foraging and commuting.
22. Paragraph 99 of Circular 06/05: Biodiversity and Geological Conservation makes it clear that the potential impact of a development on protected species and habitats should be established before any permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Whilst I appreciate that this advice was published some time ago, it has not been superseded and indeed more recent guidance maintains the same approach. There are a number of exceptional circumstances where this approach may be varied but in the absence of any information in relation to protected species, this would not apply in this case.
23. The Appellant has invited a condition to be imposed to require such information to be the subject of a pre-commencement condition, but this would not be an

acceptable or appropriate course of action to follow for the reasons set out above. Contrary to the Appellant's suggestion, there is no information before me which indicates that the Council suggested that this matter could have been addressed through a pre-commencement condition.

24. I therefore agree with the Council that, in the absence of any information to assess the presence or absence of protected species on the site, (beyond the existing buildings), I cannot be satisfied that the proposed development would not have an adverse impact on ecological interests and protected species. This would conflict with Paragraph 99 of Circular 06/05, Policy CS15 of the Core Strategy, Policy DM21 of the DM Plan and the Framework, with particular reference to Section 15, all of which require new development to preserve, manage and enhance existing habitats, protected species and biodiversity features.

Conclusion

25. I have found that, subject to the imposition of appropriate conditions, the proposal would not harm the living conditions of the immediate neighbours. However, this finding does not outweigh the harm I have concluded to the character and appearance of the local area, as well as the potential harm to protected species.
26. The proposal would not accord with the development plan and there are no other material considerations to override this finding. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR