



Appeal Decision

Site visit made on 4 December 2023 by A Coombes MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2024

Appeal Ref: APP/K3605/D/23/3327396

1 Cranmer Close, Weybridge, Surrey KT13 0SR

- 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 Mrs Abhey Sheikh against the decision of Elmbridge Borough Council.
 - The application Ref 2023/1098 dated 11 April 2023, was refused by notice dated 26 July 2023.
 - The development proposed is the erection of a first floor extension, single storey extension, garage conversion and new porch.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The Government published on 19 December 2023 a revised version of the National Planning Policy Framework (Framework). Whilst I have had regard to the revised national policy as a material consideration, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

4. The main issues are the effect of the proposed development on protected species and the living conditions of the neighbouring occupiers, with particular regard to outlook and light.

Reasons for the Recommendation

Protected Species

5. Circular 06/2005, paragraph 99, 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 the planning permission is

granted, otherwise all relevant material considerations may not have been addressed in making the decision’.

6. The evidence before me indicates that there is a reasonable likelihood of protected species, namely badgers, being present in the woodland near the appeal site. However, no further details regarding which protected species may be present at the site, or how the proposal may affect them, have been submitted during this application or at the appeal stage.
7. The appellant submitted the findings of a badger survey under a previous scheme. Mitigation was required for the impact of that development on badgers, and it was noted that they would need to apply for a licence from Natural England to safely complete the works. That survey was undertaken some years ago and related to a different development, and in any case has not been put before me. Therefore, I cannot condition compliance with the mitigation proposed then, as I do not know that it would be suitable for the current development.
8. Consequently, this cannot reasonably be dealt with by conditions, as I do not have sufficient information to be satisfied whether there would be any harm to protected species, and if so, whether it could be avoided or mitigated. In these circumstances, I must take a precautionary approach and cannot recommend that planning permission be granted.
9. Therefore, the proposed development has the potential to harm protected species. It has not been demonstrated that the proposal will avoid adverse impacts or, if unavoidable, adequately mitigate those adverse impacts. As such, there would be conflict with Policy CS15 of the Elmbridge Core Strategy, adopted 2011, and Policy DM21 of the Elmbridge Local Plan Development Management Plan (DMP), adopted 2015. Together these policies seek to ensure that new development does not result in a net loss of biodiversity and, where possible, should preserve, manage, or enhance habitats, protected species and biodiversity features. It would also conflict with Framework policies regarding biodiversity and protected species.

Living Conditions

10. The Council’s Design and Character Supplementary Planning Document (SPD) suggests that a 45 degree line drawn from the window of a neighbouring property can be used to assess the effect of a proposal on light and outlook. The proposal would breach a 45-degree line drawn from the outer edge of the front bedroom window of 2 Cranmer Close, however the existing property already breaches that line with part of the garage and the carport and the main part of the bungalow beyond.
11. The appeal site occupies an elevated position compared with the neighbouring property, No 2. The sole window to the front bedroom in No 2 is quite small and set high up, facing toward the appeal site at an angle. The difference in land levels means that although the appeal property is single storey, it is currently a prominent feature in the outlook from within the front bedroom.
12. The proposed development would introduce a two-storey gable over the garage, however it would be set back from the window and therefore have limited impact on outlook from No 2. There would however be a very substantial two storey gable end behind the car port, which would be clearly

visible from the front bedroom of No 2 in relatively close proximity and would appear dominant and overbearing from that room. Consequently, while the proposed extensions would not project further forward than the existing dwelling, they would introduce considerable additional bulk at first floor level. Combined with the difference in land levels, this would significantly and harmfully reduce outlook from a habitable room in No 2, to the detriment of the living conditions of the occupiers.

13. I saw that the front bedroom benefitted from a good level of daylight even on a cloudy day. The proposed first floor elements would be set away from the window and would not project further forward than the existing dwelling. Therefore, although there would be some reduction in sky view and daylight, there is no substantive evidence before me that this would be so great as to be harmful to living conditions, or result in an inadequate level of daylight to this habitable room.
14. The front bedroom of No 2 faces north-east and is shaded in the afternoon by the existing building. However, it benefits from sunlight in the morning as the appeal property is only single storey and the carport is relatively transparent. Due to their height and scale, the first-floor elements proposed above the garage and main part of the bungalow would increase shading of the bedroom for several hours in the morning. Given the limited sunlight available to that room, this would result in a significant and harmful loss of sunlight to that habitable room, to the detriment of the living conditions of the occupiers.
15. Although the appellant states that the owners of No 2 support the application, I have not received any representations from that property. The absence of comment does not weigh in favour of the proposal.
16. Therefore, the proposed development would harm the living conditions of the neighbouring occupiers, with particular regard to outlook and light. Consequently, it would conflict with Policy DM2 of the DMP, insofar as it seeks that development is designed to protect the amenity of adjoining occupiers in these respects. It would also conflict with the guidance in the SPD, and with the Framework which requires a high standard of amenity for existing and future users.

Other Matters

17. The Council cites the potential impact on trees as a reason for refusal, as no supporting arboricultural information was submitted during the application stage. There are trees on site and other trees subject to a Tree Preservation Order on adjacent land which make a positive contribution to the area. Damage to, or loss of, these trees would harm the character and appearance of the area.
18. On the site visit I observed that the trees were a sufficient distance from the proposed development that direct impacts would be unlikely. Nevertheless, there could be potential for damage during construction through storage and movement of materials and machinery. Given the size of the site, there would be space for this to take place away from the trees, therefore this could be mitigated through appropriate working methods and protective fencing, secured by a planning condition. Therefore, the proposal would not conflict with DMP Policy DM6 which seeks to retain and protect trees which contribute to the character of the area.

19. I acknowledge that the Council Tree Officer has commented that arboricultural information should have been provided to meet validation requirements. However, there is no evidence before me to indicate whether the applicant was informed of this. Nonetheless, if the appeal scheme had otherwise been acceptable, this matter would not be an impediment to granting planning permission, subject to conditions. The lack of harm in this respect does not outweigh the harm identified above however.

Conclusion and Recommendation

20. The proposal would conflict with the development plan read as a whole, and the Framework, and there are no material considerations that justify granting permission. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

A Coombes

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative's report and I agree with the reasoning set out above. The proposal would harm living conditions for the occupiers of No 2 and it has not been demonstrated that there would be no adverse impact on protected species. While I have found no harm to trees and the character and appearance of the area, subject to conditions, this does not outweigh the harm identified and the conflict with the development plan. On that basis, the appeal is dismissed.

L McKay

INSPECTOR