



Appeal Decision

Site visit made on 22 May 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal Ref: APP/K3605/D/24/3338691

8 Sherman Avenue, Walton-on-Thames, Surrey KT12 2FN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Navin Algoo against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/2425.
 - The development proposed is described as "new driveway".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development from the appeal form as it is a more precise form of wording than that used in the application form. However, I have omitted reference to the proposal being retrospective, as this is not an act of development.

Main Issues

3. The main issues are the effect of the proposal on;
 - the provision of open space, and;
 - the character and appearance of the area.

Reasons

Open space

4. The development has taken place on land to the front of the appeal property, adjacent to the highway. The land is entirely within public view and is open and unsecured. In tandem with other similar strips of land it serves, amongst other functions, to provide visual and spatial openness to the neighbourhood.
5. The land is readily distinguishable from the rear garden at the appeal site, which is private, secure and secluded, concealed from public view by the combination of a substantial brick wall and an attached garage.
6. Paragraph 103 of the National Planning Policy Framework (the Framework) states that existing open space, defined as all open space of public value, shall not be built on unless one of three exemptions set out in that part of the Framework apply.

7. Policy DM20 of the Elmbridge Development Management Plan 2105 (the Local Plan), mirrors the requirements of the Framework. Policy CS14 of the Elmbridge Core Strategy 2011 (the Core Strategy) gives a high level of protection to green infrastructure assets, defined as including amenity greenspaces around housing.
8. I appreciate that the development is on land within the appellants ownership and is not available for public use. It would nevertheless have been an open space of public value as defined by the Framework, due to its inherent characteristics as set out above. As such, I consider that paragraph 103 of the Framework, Policy DM20 of the Local Plan and Policy CS14 of the Core Strategy apply to the development.
9. I appreciate that the extent of the open space lost is modest, as is the development built upon it. Nevertheless, the policies apply to anything built on open space of public value, regardless of size.
10. No evidence has been provided to show that any of the three exemptions set out in paragraph 103 of the Framework (and mirrored in policy DM20) are applicable. On that basis, I find the development to constitute an unjustified loss of open space of public value, contrary to paragraph 103 of the Framework and Policy DM20 of the Local Plan, which seek to prevent open spaces being built on, and to further constitute the loss of an amenity greenspace, contrary to Policy CS14 of the Core Strategy.

Character and appearance

11. The appeal site is on a residential estate where the land between houses and the highway is generally open plan and turfed, save for simple footpaths, parking spaces and driveways. I noted a mix of parking arrangements in the area, including several instances where two or more spaces were laid out side-by-side.
12. The development comprises the extension of a single-width driveway over part of a turfed landscaping area, allowing two vehicles to be parked abreast.
13. The extended area is modest in size and uses materials that closely match the existing driveway. The combined width of the original and extended driveway is not unusual in the local area, nor is the sight of cars parked two or more abreast. The development is not out of keeping in terms of scale, width, materials and finish, and integrates successfully into the character and appearance of the area, therefore.
14. Though the Council cites the removal of a tree as an adverse impact of the development, there is no evidence that one was in fact lost. What appears to have been lost is the possibility of a tree being planted on or near land where the extended driveway now is.
15. Notwithstanding any approved landscaping plan for the wider area, I have no evidence that a tree would have been planted; there is no evidence that the appellant intended to plant one, or that enforcement action had been pursued to that end.
16. Furthermore, I have no reason to believe doubt that a tree could be planted in the turfed area that remains alongside the extended driveway, or that to do so would not comply with the landscaping plan for the wider development. For

these reasons I attach very little weight in my decision to the purposed removal of a tree.

17. For the reasons set out above, I conclude that the development would not harm the character and appearance of the local area in a manner conflicting with Policies CS14 and CS17 of the Elmbridge Core Strategy 2011 (the Core Strategy), or Policies DM2 and DM6 of the Elmbridge Development Management Plan 2105 (The Local Plan), which require development to protect, enhance, and integrate into local landscape character.

Other Matters

18. I recognise that the development has been described as an improvement to highway safety by both the appellant and neighbouring residents. Even if this is so, I have no evidence that the original parking arrangements were unsafe. Indeed, the appeal site is on a relatively modern residential development and the original layout would have been found acceptable in that respect. For those reasons, matters of highway safety have not factored in my decision.

Conclusion

19. I am satisfied that the development would not detract from the character and appearance of the host dwelling or the local area. Nevertheless, for the reasons given above the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

A Knight

INSPECTOR