



Appeal Decision

Site visit made on 16 May 2024

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/C3620/W/23/3330674

The Meads, 3 Fir Tree Close, Leatherhead, Surrey KT22 8RH

- 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 Gary Simmons against the decision of Mole Valley District Council.
 - The application Ref is MO/2023/0925/PLA.
 - The development proposed is the demolition of existing bungalow and erection of proposed detached replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area, including in relation to protected trees, and
 - the living conditions of neighbouring occupiers at 17 Yarm Court Road, with particular regard to outlook.

Reasons

Character and appearance

3. The appeal site is located within a low density, verdant residential area. The area is characterised by large two storey properties which are well set back and positioned within often substantial plots. Mature trees and high hedges contribute positively to the verdant character and add to the attractiveness of the area. The appeal property comprises a modest bungalow set within a substantial plot.
4. There are several trees within the appeal site which are the subject of a Tree Preservation Order¹. Those relevant to the reason for refusal are two groups of large mature trees comprising Beech (G2) and Lime (G3) at the rear of the site (the protected trees). These trees are of a significant size, and collectively they make a significant contribution to the verdant character of the area. The trees appear to be in good health and future growth is likely.

¹ TPO/117/1/J

5. The proposed replacement dwelling, and in particular its rear southern elevation, would be positioned much closer than the existing bungalow to these trees. The proximity to the protected trees would result in shading to the replacement dwelling, and part of its garden area, detrimentally affecting sunlight and daylight from the south.
6. The position of windows within the replacement dwelling are such that the shading would have a detrimental effect upon sunlight and daylight to main habitable rooms. At ground floor level the kitchen/family room would be served only by windows on the rear elevation, as such the effect of shading on this room would be significant. The shading would also affect a bedroom and bathroom at first floor. This indicates a high likelihood of pressure to fell or prune the protected trees in order to improve the internal light.
7. While the existing appellant may be content with the potential shading, ownership may change in the future, and I must consider the long-term implications of the development. As such, this does not persuade me that future pressure for pruning or felling would be avoided.
8. Whilst an ongoing monitoring and inspection programme has been suggested, this would not necessarily preclude a conflict between the desire for daylight within the property and the long-term health of the trees. Furthermore, although the protected status of the trees would afford some protection, it can be difficult for a Council to resist applications where there are detrimental effects upon living conditions, or where damage to the property is being sustained. As such, this does not address the issue.
9. Having regard to the above factors, I am not satisfied that the proposed development would result in a sustainable relationship with retained trees, such to ensure their long-term health. The proximity of the proposed development would be likely to result in harm to the Beech and Lime trees by way of future pressure for pruning/lopping. In turn, this would result in a detrimental effect on the attractive, verdant character of the area.
10. Reference has been made to a couple of permitted development fallback options, including for a significant rear extension to the existing bungalow. There are no specific schemes before me such to demonstrate the potential effects of this, or indeed to allow a detailed comparison with the appeal scheme. It is also noted that larger rear extensions are subject to a prior approval process, and there is no certainty approval would be granted. Given these factors, I attribute limited weight to the fallback.
11. Although smaller extensions undertaken through permitted development rights are not subject of a prior approval process, in this case, any such extensions would be sited further away from the trees and as such would result in less harm. I am not satisfied therefore that such works would provide any benefit over and above the appeal scheme and I attribute it modest weight.
12. In terms of other aspects of the design, whilst a substantial dwelling, the proposed would be in keeping with the scale and height of neighbouring dwellings and would not amount to overdevelopment. The siting of the dwelling would be set back from the road, consistent with the wider pattern of development. The bulk of roof forms in the surrounding area varies, however, whilst large, the hipped roof form would nonetheless sit comfortably within the

surrounding varied roofscape. Within Fir Tree Close, each property is unique in terms of its design and form. The proposed dwelling would add to this variety.

13. Notwithstanding my comments on the acceptability of other aspects of the design, this would not override the harm to the character of the area resulting from harm to protected trees.
14. In light of the above, it would be harmful to the character and appearance of the area, due to a failure to protect retained trees. The proposal would therefore conflict with Policies ENV22, ENV23 and ENV25 of the Mole Valley Local Plan 2000 (LP) and CS14 and CS15 of the Mole Valley Core Strategy 2009 (CS). These policies, taken together and insofar as relevant, require that development has regard to existing trees of amenity value, and in turn respect the character and appearance of the locality. There would also be a conflict with the Framework which recognises that trees make an important contribution to the character and quality of urban environments states that existing trees should be retained wherever possible.

Living conditions

15. 17 Yarm Court Road (No 17) is a two-storey detached property which shares a boundary with the appeal site. The rear elevation of the property would directly face the proposed replacement dwelling. Although the existing bungalow is positioned adjacent to the rear boundary, it has a low profile and limited presence. As such, the garden to No 17 provides high quality amenity space, with a generally open aspect beyond its boundaries.
16. The proposed dwelling, given its depth, height, and overall bulk, would have a significantly greater presence than the existing modest bungalow. By contrast with the existing position, it would span across the full width of the garden to No 17 and would be a substantial 2-storey property. Due to the proximity of the building to the rear boundary, there would be an undue sense of enclosure which would be detrimental to the outlook enjoyed by the occupiers of No 17. The identified harm would particularly affect the rear garden area.
17. Reference has been made to a fall-back position, for side, rear and upward extensions to the existing bungalow through permitted development rights. No specific schemes are before me for consideration; however, it is noted that both larger and upward extensions would both require prior approval to be applied for. In the absence of more detail, such to enable a detailed comparison of their effects, and given the doubt over whether prior approval would be granted, this fall-back position carries very little weight and does not justify the harm to the occupiers of No 17.
18. Given the above, the proposal would have a detrimental effect upon the living conditions of neighbouring occupiers at No 17, with particular regard to outlook. Consequently, the proposal would conflict with Policy ENV22 of the LP, as it would result in significant harm to the amenities of the occupiers of neighbouring properties. The proposal would also conflict with the requirements of the Framework, which include providing a high standard of amenity for existing and future users.

Other matters

19. The proposal would bring short term construction employment benefits, although given the scale of the proposal, the extent of these would be modest.

20. The occupiers of the proposal would be likely to support to local facilities, services and businesses; however, as the proposal is for a replacement dwelling and the existing property is already occupied, the relative benefits would be very limited.

Conclusion

21. 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. Therefore, the appeal is dismissed.

R Lawrence

INSPECTOR