



Appeal Decision

Site visit made on 1 October 2024

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/L3625/W/24/3341991

Land to the west of Kingfisher Close, Banstead, Surrey, SM7 1LG

- 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 Steven Doel, Denton Homes Limited against the decision of Reigate and Banstead Borough Council.
 - The application Ref is 23/02659/F.
 - The development proposed is construction of detached 3-bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of detached 3-bedroom dwelling at Land to the west of Kingfisher Close, Banstead, Surrey, SM7 1LG in accordance with the terms of the application, Ref 23/02659/F, subject to the conditions set out in the attached Schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular reference to trees.

Reasons

3. The appeal concerns a plot of land immediately to the west of a row of recently constructed dwellings in Kingfisher Close. It previously formed garden land to the rear of 51 Warren Close and partially to the rear of 49 Warren Road but has now been subdivided and fenced off.
4. My attention has been drawn by the main parties to a previous application for a similar proposal¹ on the site for a detached dwelling. This application was refused planning permission and was also dismissed on appeal² due to concerns regarding future pressure from subsequent occupiers to lop or fell a protected Blue Atlas Cedar tree (cedar) which is close to the western boundary of the site, within the garden of 53 Warren Road.
5. The cedar tree makes a significant and important contribution to the character and appearance of the area due to its size and prominence. The submitted Tree Schedule classifies the tree as "Mature" "i.e. full height attained. Crown spread will increase but growth increments will be slight". Based on the evidence before me, the tree is therefore likely to be at full height and is unlikely to

¹ LPA ref. 21/02552/F

² Appeal Ref. APP/L3625/W/22/3309194

experience significant future spread of the crown. Furthermore, the cedar has also been subject to previous crown lifting, so that lower branches on the side of the proposed development are high above ground and any future limited growth towards the appeal site would be reduced.

6. The siting, layout and design of the proposed development has been significantly amended following the previous Inspector's decision on the site. The proposed dwelling would be re-sited deeper into the site, outside the canopy of the protected cedar and no part of it would be within its root protection area. The distance of the proposed dwelling to the side boundary has also been increased to around 1.77m. As there would be no overhang, needles from the tree would be less likely to fall on the roof or guttering leading to less pressure from future occupiers for it to be lopped or felled in this respect. Furthermore, the dwelling would have a catslide roof on its western side adjacent to the cedar tree. The increased space above the eaves of the dwelling would accommodate any modest future growth increments and the low height of the guttering would allow for easier clearance should any needles collect in it.
7. The front elevation of the proposed dwelling would face north and accordingly, windows on this elevation would not receive significant levels of sunlight. The cedar tree is positioned to the north-west of the proposed dwelling and consequently, would have little effect on sunlight levels. Whilst the tree may have some effect on the amount of natural daylight received by windows on the front elevation of the dwelling, the internal layout proposes less sensitive rooms on the part of the front elevation closest to the tree. These rooms are shown to serve a study on the ground floor and a non-habitable bathroom window above. Whilst the ground floor 'study' could subsequently be used for a variety of purposes, its future use in practice would be restricted due to its limited size. I therefore consider, even taking into account of possible future growth, the tree is unlikely to have an unacceptable shading effect on the main habitable rooms within the proposed dwelling.
8. Other windows on the front elevation would be further away from the cedar tree and therefore less affected by shading. These windows would serve a kitchen (with no diner) with windows on three sides and a dual aspect bedroom above.
9. Whilst a matter of judgement, having regard to all of the above considerations, I am satisfied that the proposed development would be unlikely to result in significant pressure from future occupiers for the cedar to be lopped, excessively pruned or felled as a result of its proximity. I am therefore satisfied that there would be no conflict with the advice in the British Standard 5837:2012 "Trees in Relation to design, demolition and construction" in this regard.
10. In conclusion, the proposal would not have a significant harmful effect on the character and appearance of the area with particular reference to trees. It would comply with Policy NH3 of the Reigate and Banstead Development Management Plan 2019 (DMP) which seeks to safeguard valuable tree cover and ensure that these features are protected as an integral part of new development.

11. The Council has also referred to Policies NHE9 and DES3 of the DMP. As these policies relate to heritage assets and Residential Areas of Special Character, they do not appear to be relevant to the appeal proposal.

Other Matters

12. I acknowledge the substantial number of objections from local residents to the proposed development. The proposed dwelling would be of a similar design and appearance to the existing dwellings in Kingfisher Close. It would be located within a plot of a similar size to those adjoining the site to the east and would not constitute overdevelopment or be out of keeping with the character of the area in this respect. Whilst the dwelling would be positioned slightly deeper into its plot than the adjoining properties, I am satisfied that it would not cause any harm to the character and appearance of the wider area.
13. The proposed dwelling would extend beyond the rear elevation of the adjacent dwelling in Kingfisher Close. However, I am satisfied that it would not result in any significant loss of light, privacy or outlook that would be deemed harmful to the living conditions of adjoining occupiers. I am satisfied that the proposed development would not have a harmful effect on the living conditions of other nearby occupiers due to the generous separation distances proposed.
14. An ecology report was submitted with the proposal which was subsequently assessed by Surrey Wildlife Trust (SWT). No objections to the proposal were raised on ecology grounds and in the absence of any substantive evidence to the contrary, I have no reason to disagree with the Council's or SWT's findings.
15. The Council has raised no objections to the proposal on parking or highway safety grounds and I am satisfied that the proposal makes adequate provision for parking and would not give rise to congestion or other highway safety issues. Some noise and disturbance can be expected with any development proposal but would be short lived. Any unreasonable occurrence of noise or disturbance would be the subject of other legislation.
16. Concerns have been raised relating to pollution, inadequate local services and utility capacity. There are, however, no technical assessments before me to support such concerns.
17. From the evidence before me, the appeal site is not within the Green Belt or close to any designated heritage assets. Third party concerns in relation to these matters are therefore unfounded.
18. The effect on property values, loss of a private view and conflict with covenants are not planning considerations and are therefore outside the scope of this appeal.
19. I have assessed the appeal on its merits and with regard to comments about the planning history of the site, the need for and type of development proposed and suggested alternative locations, I can only consider the proposal before me.

Conditions

20. I have had regard to the Council's list of suggested conditions in the event that the appeal is to be allowed.

21. The approved plans condition is added for clarity. Conditions relating to materials, tree protection and landscaping are necessary to protect the character and appearance of the area. The provision of measures to encourage and protect wildlife are in the interests of biodiversity.
22. The condition relating to the provision of parking and turning space is necessary in the interest of highway and pedestrian safety.
23. The implementation of water efficiency and the provision of vehicle charging points are necessary to support the efficient use of resources and minimise carbon emissions. The provision of broadband infrastructure is justified for a high-quality electronic communications network.

Conclusion

24. I have found that the proposed development would comply with the development plan. There are no material considerations of sufficient weight that indicate that a decision should be made other than in accordance with the development plan.
25. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed.

J Davis

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
060-03-01; 060-03-02; 060-03-03; 060-03-04; 060-03-05; 060-03-06; 060-03-07; 060-03-08; 060-03-09; and 060-03-10.
- 3) No development shall take place above slab level until written details of the materials to be used in the construction of the external surfaces, including fenestration and roof, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence including groundworks preparation and demolition until all related arboricultural matters, including arboricultural supervision, monitoring and tree protection measures are implemented in strict accordance with the approved details contained in the Tree Protection Plan compiled by Trevor Heaps Arboricultural Consultancy reference TH/A3/3140E/TPP, dated 14 December 2023.
- 5) No development above ground floor slab level shall commence on site until a scheme for the landscaping of the site including the retention of

existing landscape features has been submitted to and approved in writing by the local planning authority. The Landscaping scheme shall include details of hard and soft landscaping, including any tree removal/retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation and management program.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to first occupation or within the first planting season following completion of the development hereby approved or in accordance with a program agreed in writing with the local planning authority.

All new tree planting shall be positioned in accordance with guidelines and advice contained in the current British Standard 5837: Trees in relation to construction.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, and shrubs of the same size and species.

- 6) No development above ground level shall commence until an appropriately detailed landscape and ecological management plan (LEMP) has been submitted to and approved in writing by the local planning authority (LPA). This should be designed alongside the soft landscaping proposals for the site. The biodiversity enhancement measures approved shall be carried out and maintained in strict accordance with these details or as otherwise agreed in writing by the LPA, and before occupation of the dwelling.
- 7) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 8) The development hereby approved shall not be occupied unless and until the proposed dwelling is provided with a fast charge socket (current minimum requirement: 7kw Mode 3 with Type 2 connector - 230 v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority (LPA) and thereafter retained and maintained to the satisfaction of the LPA.
- 9) The development hereby approved shall not be first occupied unless and until a Water Efficiency Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall detail how the development will ensure that the potential water consumption by occupants of the new dwelling does not exceed 110 litres per person per day. The development shall be carried out in accordance with the approved details.

- 10) Prior to first occupation, the dwelling approved shall be provided with the necessary infrastructure to facilitate connection to a high speed broadband. Unless otherwise agreed in writing with the Local Planning Authority, this shall include as a minimum:
- a) A broadband connection accessed directly from the nearest exchange or cabinet,
 - b) Cabling and associated installations which enable easy access for future repair, replacement or upgrading.

[End of Schedule]