



Appeal Decision

Site visit made on 24 October 2024

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

an Inspector appointed by the Secretary of State

Decision date: 06 November 2024

Appeal Ref: APP/P3610/W/24/3342567

16 Reigate Road, Ewell, Surrey KT17 1PH

- 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 Mark Michel against the decision of Epsom and Ewell Borough Council.
 - The application Ref is 23/00582/FUL.
 - The development proposed is demolition of existing garage, new build two-storey detached dwelling with 3 bedrooms, loft conversion and new porch additions to existing dwelling and widening of existing vehicle crossover.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Preliminary Roost Assessment (PRA) has been submitted to support this appeal which seeks to address the Council's concerns regarding protected species. Within the timeframes for this appeal the Council has had the opportunity to comment on the additional information. Although the appeals process should not be used to evolve a scheme, I am satisfied in this case, that accepting the report would not likely prejudice any interested parties. I have therefore had regard to the document in reaching my decision.
3. The garage, as shown on the existing plans, had been removed at the time of my site visit. For the avoidance of doubt, I have determined the appeal on its own merits and the submitted plans.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area,
 - protected species, and
 - the living conditions for future occupiers of the proposed house, with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site lies adjacent to a public footpath and contains a semi-detached property with an attached garage. The dwelling benefits from generous space to its side boundary, and a lengthy rear garden. The appeal site sits within a row of pairs of semi-detached properties of a similar style, width and form.

There is consistency between the roof forms of these pairs of dwellings, with hipped roofs. On each end of the row, there is a good separation at first floor level between the dwellings and the respective side boundaries. These gaps provide visual relief between the different groups of houses on the road and make an important contribution to the attractiveness of the area.

6. The proposal would introduce a detached dwelling, the footprint of which would overlap with that of the former garage. The two-storey dwelling would sit within the space to the side of the existing dwelling, thereby eroding an important gap to the side boundary which currently exists at first floor level. The resultant plot width for the existing and proposed dwellings, would be considerably smaller than the other houses on the row.
7. Both the existing and proposed dwellings would have gable ended pitched roof forms. This would result in an increased bulk to the roof form, further eroding the gaps at first floor level and above, to both side boundaries of the proposed property. The introduction of a detached property with such a small gap to the footpath and the row of semi-detached properties, would appear both contrived and cramped. This would erode the attractive character of the area.
8. My attention has been drawn to a number of existing developments in the area. No 8 Reigate Road is located at the opposite end of the row of houses. This property is single storey, and whilst of a different form to the semi-detached properties in the row, its modest scale together with the retained separation at first floor level, is such that it does not detract from the uniformity of the semi-detached properties. The width of that plot is much larger than that proposed for the existing and proposed dwelling. Given these factors, it is materially different to the scheme before me. Therefore, I attach it little weight.
9. Elsewhere, there are a number of examples on Curvan Close, Persfield Close where there is built form constructed close to its side boundaries. On those roads, single storey built form constructed up to the side boundary is reflective of the character of that road. The appeal scheme is materially different as it proposes a new two storey building with minimal separation, furthermore, the pattern of development on those roads is markedly different to that adjacent to the appeal scheme. No 17 Reigate Road also contains a detached chalet bungalow and as such is materially different to that proposed. The examples highlighted do not therefore persuade me that the appeal scheme would be acceptable.
10. In light of the above, I find that the proposal would have a detrimental effect on the character and appearance of the area. Given the prominent location of the appeal site, adjacent to a footpath and a main road, I find this harm to be significant. The proposal would therefore conflict with Policy CS5 of the Core Strategy 2007 (CS) and Policies DM9 and DM10 of the Development Management Policies Document 2015 (DMP). These policies read together and insofar as relevant, require that development is compatible with and contributes to the character and local distinctiveness of a street or area. There would also be a conflict with the aims of the Framework which seeks to achieve well-designed and beautiful places through developments that are visually attractive and sympathetic to local character.

Protected species

11. The Conservation of Habitats and Species Regulations 2017 (as amended) impose a duty on me to consider whether European Protected Species would be affected by the development and whether associated mitigation measures would be effective. This includes bats.
12. The PRA, which included a detailed internal and external survey, found that the existing house and garage, had low potential suitability for bats. However, there were potential crevice roost locations identified within the garage and behind hanging tiles on the front bay window of the house. Given this potential, albeit low, the possibility of the presence of bats could not be ruled out.
13. The proposal includes the, already undertaken, demolition of the garage, which was a potential area for use by bats. As such, if present, bats could have been adversely affected by the development. The PRA therefore highlights the need for an additional survey immediately prior to demolition such to confirm whether bats are present on site. The survey would have also established whether any additional mitigation measures or a European Protected Species licence would be required for the works.
14. The appellant contends that an additional survey and any necessary mitigation could be secured through a planning condition. In this regard I note the low suitability of the appeal site for bat roosts, and that the purpose of the survey would be to confirm the continued absence of bats, a mobile protected species. However, even if I were to accept that condition might have been appropriate, the garage has already been demolished.
15. The demolition of the garage is such that any condition to require a further survey could not be complied with and would not therefore be reasonable. Although I note that the appellants intentions were to undertake a survey prior to demolition of the garage, there is no information before me as to whether this was indeed undertaken, or if so, its findings. As such, it is unclear how the works carried out may have affected any protected species on site, or in turn, how this may have affected the site's suitability for bats. Given this, a condition would not be appropriate.
16. In the absence of the information which would have been provided by the additional survey, and the lack of evidence to confirm the absence of bats prior to the demolition of the garage, I cannot be certain that bats, a protected species, have not been adversely affected by the proposal. As such, I must take a precautionary approach and conclude there is insufficient information to demonstrate that the development would be acceptable in terms of its effect on protected species. Given the status of the species, I find this lack of information to amount to significant harm.
17. The proposal would therefore conflict with Policy CS3 of the CS and Policy DM4 of the DMP, which together, and insofar as relevant state that development affecting protected species will only be permitted if appropriate mitigation and compensatory measures are agreed.
18. The proposal would also conflict with paragraph 186 of the National Planning Policy Framework (the Framework), where it seeks to ensure development conserves or enhances biodiversity.

Living conditions

19. The proposed dwelling would occupy space to the side of the existing property, no 16. The dwelling would be detached, with a modest separation between the two properties. The new dwelling would be bordered by a public footpath on one side.
20. The footprint of the proposed dwelling would extend to a similar depth to that of the existing dwelling, both at the front and rear. No windows are proposed on the side elevation facing no 16. The dwelling would benefit from a lengthy rear garden, comparable to that of no 16.
21. Whilst the gap between the two properties would be slight, in the absence of any windows on the affected side elevation, and given the comparable dimensions, the proposed dwelling would benefit from a good quality outlook. In particular, at first floor level there would be a generally open aspect, save for existing vegetation, across neighbouring gardens and the adjacent footpath. The relationship between the two properties would be comparable to that between the various pairs of semi-detached properties within the area.
22. On the basis of the above, I am satisfied that the living conditions for future occupiers of the proposed dwelling with particular regard to outlook, would be acceptable such to accord with the requirements of Policy DM10 of the DMP. This policy requires, amongst other matters, that development has regard to the amenities of occupants, including in terms of outlook. The proposal would also accord with the requirements of the Framework, which include providing a high standard of amenity for existing and future users.

Other Matters

23. The appellant has indicated that the demolition of the garage did not require planning permission. This is not a matter for me to reach a view on, in the context of an appeal under section 78 of the Town and Country Planning Act 1990. In any event, the demolition of the garage forms part of the appeal scheme which I am required to assess as a whole and on its own merits.
24. In addition, the appellant has suggested that an amended description, excluding the demolition of the garage, could be appropriate. However, such a change would not be reflective of the submitted plans which include the garage as an existing form of development. There is also no written confirmation that the Local Planning Authority would be agreeable to such a change.
25. I have had regard to the letters of representation received, which include a number in support of the appeal scheme. The reasons for support include that the proposal would be in keeping with the 1930s style, additional footfall for local businesses and an appropriate use of an end of row plot to provide much needed housing, as opposed to utilising green space elsewhere in the Borough. For the reasons set out above, I have found the proposal to be unacceptable in terms of its character and appearance. The contribution of the proposal towards supporting local businesses and the supply of housing in the Borough are benefits to the scheme. I explore these benefits further, later in my decision.
26. A number of representations express a preference for use of sites such as the appeal scheme for the delivery of housing, over green space elsewhere. I have no reason to dispute the acceptability of the principle of development.

Nonetheless, the proposal would generate other sources of harm as detailed above.

Planning Balance

27. On the main issues of the appeal, I have found no conflict with the aims of the development plan in terms of the living conditions for future occupiers. However, the proposal would result in significant harm to the character and appearance of the area, and to protected species.
28. The CS dates from 2007, but the weight to be attached does not hinge on its age. Paragraph 225 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
29. In this case, the aims of Policy CS5 of the CS and Policies DM9 and DM10 of the DMP in respect of their emphasis on contributing to the local distinctiveness of an area, align with aims of the Framework to create high quality, beautiful buildings and development that is visually attractive. Similarly, the protection for protected species set out in Policy CS3 of the CS and Policy DM4 of the DMP align with the requirements of the Framework to conserve or enhance biodiversity. I therefore attribute substantial weight to the conflicts with these policies. Consequently, there would be a conflict with the development plan as a whole.
30. The Council accepts that it is unable to demonstrate a five year supply of deliverable housing sites. A figure is not given by the Council, but the appellant has indicated that the latest position is just 1.56 years' supply, which amounts to a substantial shortfall. In these circumstances footnote 8 of the National Planning Policy Framework establishes that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not in a protected area.
31. The benefits associated with the appeal scheme include supporting local businesses and the supply of housing. It would also contribute towards the government's target to significantly boost the supply of homes. However, whilst small and medium sized sites can make an important contribution to meeting the housing requirement of an area, the small scale of the proposal limits the weight I can attach to these benefits. Collectively, I attach moderate weight to them.
32. Overall, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

33. 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