



Appeal Decision

Site visit made on 6 January 2025

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2025

Appeal Ref: APP/K3605/W/24/3349721

7 Princes Drive, Oxshott, Leatherhead, Surrey KT22 0UL

- 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 and Mrs S Dann against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/2065.
 - The development proposed is the erection of 1no. replacement detached dwelling and 1no. new detached dwelling, following demolition of existing detached dwelling, including access, parking, detached garage and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 replacement detached dwelling and 1 new detached dwelling, following demolition of existing detached dwelling, including access, parking, detached garage, and landscaping at 7 Princes Drive, Oxshott, KT22 0UL in accordance with the terms of the application, Ref 2023/2065, and subject to the conditions in the attached schedule.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2024. The main parties have been given an opportunity to comment on this and the revised version has been referred to in this decision.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the local area; and the living conditions of the occupants of Meadow House with specific regard to outlook and privacy; and whether the proposal would contribute to an identified housing need.

Reasons

Character and appearance

4. The appeal site is within a residential area known as the Crown or Birds Hill Estate (the Estate), where large 2 and 3 storey properties are situated within mature gardens. In general, the properties are to the front of the plots behind mature hedging. This leads to a spacious and verdant character where properties are largely screened and often individually designed. There are however examples of properties built in tandem, one or more behind each other, such as to the rear of 9 Princes Drive and on the opposite side of the appeal site, Erchless House, Kikinda, and Meadow House.

5. The proposal would constitute the demolition of the existing dwelling and the construction of 2 new dwellings in tandem, Plot 1 nearest the road and Plot 2 to the rear. Plot 1, although set slightly further back than the existing dwelling would be in keeping with the broad building line along Princes Drive, and Plot 2 would reflect the setback nature already characteristic of the tandem development on either side of the appeal site. Both proposed dwellings would be of a scale, design, and form as representative of other dwellings in the Estate, as would the proposed house to garden ratio. It is also recognised that the proposed lower height of Plot 2 would not overwhelm Plot 1 when considering the slope that is apparent across the appeal site.
6. It is noted that the appeal site is narrower than some of the plots along Princes Drive. However, Plot 1 would be set further from the side boundaries of the site than the existing dwelling, and Plot 2 would be inset further into the site than Plot 1. Notwithstanding this, it is noted that many of the properties in the area are located closely to one or other side boundary. However, due to the sizes of the plots, and the established and dense planting along many of the side boundaries, the character of the area is guided more by the spaciousness between individual dwellings and not their specific proximity to side boundaries. Consequently, the proposed location of the 2 dwellings within the appeal site are in keeping with the local character and would not appear cramped in relation to surrounding development or when considered in respect of the private woodland to the rear.
7. The Council have referred to an appeal at Cherry Garth¹, where a scheme for 2 detached dwellings was refused on grounds relating to character and appearance, amongst other things. However, Cherry Garth did not propose tandem dwellings but 2 properties side by side. These would have appeared as a pair and so had a detrimental impact on the established spacious character of the area. It therefore is not comparable to that which is before me.
8. Accordingly, the proposal would not harm the character and appearance of the local area and would comply with Core Strategy (CS) Policies CS10 and CS17, and Development Management Plans (DMP) Policies DM2 and DM10 insofar as they seek to preserve or enhance the character of an area; and would align with the guidance in the Design and Character Supplementary Planning Document (SPD) on this issue.

Living conditions

9. Meadow House is a large property set back from the road behind other dwellings and has a large garden to its rear. It is orientated to make the most of the views across the garden towards the appeal site. Plot 2 would be located to the rear of Meadow House and would be visible by its occupants.
10. Nevertheless, that Plot 2 would alter the views from Meadow House and its garden would not, in my mind, be so overbearing to make living there untenable. This is due to a combination of factors including the size of Meadow House's garden; the distance between its rear elevation and appeal site boundary; boundary planting; that Plot 2 would not be so deep as to extend along the full length of the shared boundary thus retaining a reasonable proportion of the wider views over that boundary including towards the

¹ APP/K3605/W/24/3336413

woodland; and that the proposed fenestration within the side elevation would provide interest and break up the overall mass of Plot 2.

11. Plot 2 would have windows in the side elevation facing Meadow House and a rear facing first floor balcony. These could increase overlooking. However, the proposed windows in the side elevation would be obscure glazed and their ability to open could be limited by conditions, as could the inclusion of privacy screening on the proposed rear facing balcony. Along with the partial screening that the established and proposed planting along the shared boundary would create, this would ensure the privacy of the occupants of Meadow House is maintained. Further it is noted that the distances involved are considerably bigger than those proposed in the SPD which are considered to ensure a notional degree of visual privacy².
12. Therefore, in regard to outlook and privacy, the proposal would not harm the living conditions of the occupants of Meadow House. Accordingly, the proposal would comply with DMP Policies DM2 and DM10 insofar as they seek to protect the living conditions of adjoining occupiers.

Housing need

13. As the appeal site is measured at 0.48 hectares³ it falls within the threshold set out within DMP Policy DM10. This policy, amongst other things, requires sites of 0.3 hectares or more to promote house types and sizes that make most efficient use of land and meet the most up to date measure of local housing need, whilst reflecting the character of the area. CS Policy CS19 further emphasises this by resisting an over concentration of any one type of dwelling if it is considered to have the potential to adversely affect community cohesion.
14. It is acknowledged that the proposal would provide 2 6-bedroom houses with ancillary accommodation, and there is nothing before me to state that this would fulfil a specific local housing need. However, due to the unique low-density nature of the development within the Estate, 1 additional house on the appeal site would be reflective of the character of the area, as set out in the first main issue. The 2 proposed dwellings would be in keeping with the generous proportions of many of the other houses on the estate and there is nothing before me to evidence that such development in this location would adversely affect community cohesion.
15. Therefore, the proposal is not contrary to the CS Policy CS19 and DMP Policy DM10, and this would align with the conclusions drawn by the inspectors in both appeal APP/K3605/W/23/333534, and those referred to in the officer report at paragraphs 36 – 40.

Other Matters

16. The appellant has submitted a unilateral undertaking to secure an affordable housing contribution which I am satisfied would comply with CS21 and therefore be necessary.
17. The Council have not found harm in relation to accommodation standards, highway safety, parking, refuse storage and collection, trees, ecology, flood

² Paragraph 5.84 of the SPD

³ As identified on the planning application form

risk, and the living conditions of occupants of other neighbouring properties, and there is nothing before me to conclude otherwise.

18. Concerns were raised by an interested party in light of issues pertaining to the waterlogging of gardens and the impact of surface water drainage. However, the proposal is supported by an appropriate surface water strategy and adherence to it can be conditioned.
19. Further concerns were raised in relation to allowed appeal at 9 Princes Drive⁴ and the Inspectors understanding of local character have also been considered, but do not alter my findings. Nor does the appellants assertion that the site for proposed Plot 2 a large area of hardstanding so constitutes Previously Developed Land. As the site constitutes a residential garden in a built-up area, within the Framework definition this use excluded from Previously Developed Land⁵.
20. It is noted that there are specific covenants and byelaws relating to properties within the Birds Hill Estate. Although interested parties have confirmed these relate to the special character of the area, they do not affect the planning merits of the case.
21. The submission of computer-generated images by interested parties has been noted. However, without detail of the information used to create those images they have not been determinative in this decision.

Conditions

22. The Council has suggested several conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended them for consistency and clarity.
23. In addition to the standard time limit condition 1, I have imposed condition 2 requiring the development to be carried out in accordance with the approved plans as this provides certainty.
24. To protect the ecology of the site conditions 3, 4, and 10 have been imposed, Conditions 5, 6, and 7 have been added to protect the character and appearance of the area, and in relation to boundary treatments, the living conditions of neighbouring residents. The living conditions of neighbouring residents are also be protected by the imposition of conditions 8, 13, 14 and 16. To prevent increased risk of flooding condition 9 is imposed, and conditions 11 and 12 have been added to satisfy DMP policies DM7 and DM8 in relation to electric car charges and refuse collection.
25. Condition 15 limits the use of ancillary accommodation to ensure the Council can maintain control over any further subdivision of the site. It is noted for condition 15 the Council specified staff accommodation, but I do not find the need for such limitations to be necessary in this case.
26. Where necessary I have added implementation clauses to certain conditions to ensure clarity and enforceability, and in relation to bat monitoring and boxes have reduced duplication.

⁴ APP/K3605/W/18/3193874

⁵ As described in Annex 2: Glossary of the Framework, page 77

27. The appellant has reviewed and made comment on all the proposed conditions, and I have not altered those which were proposed as pre-commencement. Therefore, I am content the appellant is aware and agrees with the conditions proposed as pre-commencement.

Conclusion

28. For the reasons given above the appeal scheme would comply with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, allowed.

RJ Redford

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos: SD/101; SD/102; SD/103; SD/104; SD/105; and SD/109.
- 3) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted and approved in writing by the local planning authority. The CEMP shall include but is not limited to:
 - a) a map showing the location of all ecological features;
 - b) a risk assessment of any potentially damaging construction activities;
 - c) practical measures to avoid and reduce impacts during construction;
 - d) details of the location and timing of works to avoid harm to biodiversity features;
 - e) details of responsible persons and lines of communication; and
 - f) details of the use of protective fencing, exclusion barriers and warning signs.

The development shall then be implemented in accordance with the approved CEMP.

- 4) No development shall take place until an Ecological Enhancement Plan (EEP) has been submitted and approved in writing by the local planning authority. The EEP shall include but is not limited to:
 - a) descriptions and evaluations of features to be provided;
 - b) a location plan of all ecological enhancement features being provided including the location of the proposed four bat boxes set out in the 'Technical Note: Ecology' (by AAe referenced 233148);
 - c) ecological trends and constraints on site that might influence management;

- d) implementation and management actions; and
- e) ongoing monitoring and remedial measures.

The development shall then be implemented and managed in accordance with the approved EEP.

- 5) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include but is not limited to:
- a) the existing landscaping to be retained and details of measures to protect these features during construction;
 - b) the positions and species of new trees and other planting;
 - c) the height, design, materials, and type of boundary treatment; and
 - d) an implementation and maintenance schedule.

The development shall then be implemented and maintained in accordance with the approved scheme.

- 6) No development shall commence until the tree protection measures set out in the 'Tree Survey and Arboricultural Impact Assessment' (by Clive Fowler) (TSAIA) have been implemented.

Prior to occupation the completion schedule / report required by the TSAIA shall be submitted to and approved in writing by the local planning authority.

No retained trees or hedges shall be cut down, uprooted, destroyed, pruned, cut, or damaged in any manner within 5 years from the date of first occupation of the dwellings hereby approved, other than in accordance with the approved plans and details.

- 7) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 8) The 2 dwellings hereby permitted shall not be occupied until the windows identified as having obscured glazing on plans SD/102; SD/104; and SD/105 have been fitted with obscure glass that accords with level three obscurity as shown on the Pilkington textured glass privacy levels (other glass suppliers are available) and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing and limited opening shall be retained.
- 9) The 2 dwellings hereby permitted shall not be occupied until The Mitigation Measures, Proposed Surface Water Strategy, and Proposed Foul Water Strategy set out in the 'Flood Risk Assessment, Drainage Strategy Report, Management and Maintenance Requirements' document (by Hodel Consulting Engineers dated 11 September 2023) (FDM), and the drawing 23-128_C01 have been completed, and thereafter shall be maintained in accordance with Management and Maintenance Requirements in the FDM.
- 10) The 2 dwellings hereby permitted shall not be occupied until the recommendations set out in the Discussion and Recommendations section

of the 'Technical Note: Ecology' (by AAe referenced 233148), and the associated addendum (by AAe referenced 233148/HRS), have been undertaken and all enhancements shall thereafter be retained.

- 11) The 2 dwellings hereby permitted shall not be occupied until each of the proposed dwellings are provided with a fast charge socket which shall thereafter be maintained.
- 12) The 2 dwellings hereby permitted shall not be occupied until refuse and recyclable materials storage facilities have been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those facilities shall thereafter be always retained for the storage of refuse.
- 13) The dwelling hereby permitted, and described as Plot 2 on the approved plans, shall not be occupied until privacy screening has been erected on the balcony within the rear elevation in accordance with details that have first been submitted to and approved in writing by the local planning authority. The screening shall thereafter be retained.
- 14) Prior to the installation of any fixed plant or machinery such as air-conditioner units and air source heat pumps, a noises assessment with any mitigation recommendations necessary shall be first submitted to and approved in the writing by the local planning authority, and that plant or machinery shall not be put into use until any necessary mitigation has been implemented and thereafter maintained.
- 15) The occupation of the self-contained accommodation above the garages hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the associated dwelling.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or dormer windows other than those expressly authorised by this permission shall be constructed in the north and south elevations of Plot 1 (as identified on drawing SD/102); the side elevations of Plot 2 and the associated detached garage and staff accommodation (as identified on drawings SD/104 and SD/105).

End of Schedule