



Appeal Decision

Site visit made on 4 February 2025

by **E Catcheside BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/P3610/W/24/3346386

1 Wheelers Lane, Epsom, Surrey KT18 7SD

- 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 Ernesto Corelli against the decision of Epsom & Ewell Borough Council.
 - The application Ref is 23/01234/FUL.
 - The development proposed is erection of residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have been provided with amended floor plans and elevations which seek to overcome the Council's concerns about privacy by repositioning some windows on the proposed dwelling. The Procedural Guide: Planning Appeals – England makes it clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
3. Whilst the proposed revision to the window positions could be seen as minor in nature, the Council has expressed concerns about the planning merits of the amendments. Furthermore, the amended plans have not been subject to public consultation and, therefore, may not have been seen by interested third parties. In the interests of fairness, I have therefore considered the appeal based on the plans submitted at the application stage, rather than the amended plans submitted with the appeal. To proceed otherwise could unacceptably prejudice the interests of other parties.
4. The National Planning Policy Framework (the Framework) was revised in December 2024. Because the changes do not materially affect the main issues in this case, no prejudice is caused in me deciding the appeal without reverting to the parties for further comment.

Main Issues

5. The main issues are:
 - whether the setting of the Grade II listed building at 1 Wheelers Lane would be preserved;
 - the effect of the proposal on the character and appearance of Wheelers Lane and the Stamford Green Conservation Area (CA); and,

- the effect of the proposal on the living conditions of the occupants of 85 Stamford Green Road, with particular regard to privacy.

Reasons

Listed building

6. The proposed dwelling would be sited within the garden of 1 Wheelers Lane, which is a Grade II listed building. Whilst no alterations are proposed to the listed building itself, the proposal has the potential to affect its significance through development within its setting. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The Framework states that any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.
7. The listing description for 1 Wheelers Lane describes that the two-storey dwelling originates from the early 18th Century and has a brick exterior and roughcast front, with hipped pantile roof, catslide, and tall brick stacks. It is clear from the evidence that the building has been refurbished and extended in recent years, which has secured its ongoing use as a dwelling. The area has a rich history, and the building appears to be the sole survivor of a past era, potentially linked to former land uses including brick making. Indeed, its perpendicular orientation to Wheelers Lane reveals its historic relationship to the streets, buildings, and spaces that would have existed in the past. These factors contribute to the significance of the listed building, along with its small form and roof shape, which distinguish it architecturally from other buildings nearby.
8. As indicated by the Inspector dealing with a previous appeal at the site¹, the setting of the listed building has been partially eroded by the more modern development that has established around it. However, the absence of buildings in the rear garden retains a sense of space around the heritage asset, allowing its catslide roof and architecture to be viewed over fencing from the lane. Moreover, due to its siting to the rear of No 1, the garden helps to reveal the historic relationship between the listed building and the surrounding area by accentuating its south-facing orientation.
9. At two-storeys high, and due to its siting and proximity to No 1, the proposed dwelling would significantly reduce the open character of the site, and it would block longer views of the listed building and its distinctive form and orientation from Wheelers Lane to the north. Consequently, it would diminish opportunities to experience and understand the historic layout of this part of the settlement. Moreover, in seeking to partly reflect the height and catslide roof form of No 1, the proposed dwelling would blur the distinction between the historical architectural style of the listed building and the more modern neighbouring developments. This would detract from its significance and would exacerbate the erosion of its setting that has already occurred.
10. The evidence refers to planning permissions that have previously been granted for the demolition of the listed building and the redevelopment of the site. However,

¹ Appeal Decision Reference: APP/P3610/Y/17/3187082, dated 3 April 2018.

those permissions appear to pre-date the listing and there is no evidence they were implemented. Consequently, they do not alter my assessment of the effect of the proposal on this designated heritage asset.

11. Overall, I conclude that the proposal would fail to preserve the setting of the Grade II listed 1 Wheelers Lane. Therefore, there would be conflict with Policies CS1 and CS5 of the Core Strategy 2007 (CS), and Policies DM8 and DM9 of the Development Management Policies Document (September 2015) (DMP) which, taken together, seek to protect and enhance the built and historic environment, including the setting of heritage assets. Owing to the scale and nature of the proposal, the degree of harm would be less than substantial. I shall consider this further in the overall heritage and planning balance below.

Character and appearance

12. The appeal site forms part of the Stamford Green CA, which lies to the west of Epsom town centre, abutting the edge of Epsom Common. Section 72 (1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CA.
13. The Stamford Green Conservation Area Character Appraisal and Management Proposals October 2007 indicates the significance of the CA is partly derived from its patchwork of green open spaces and predominantly residential streets, that are centred on an attractive green with a pond and historic inn. The buildings and spaces reveal how the settlement has evolved over time.
14. The buildings in the CA are of mixed ages, with many arranged in reasonably close-knit pairs along street frontages, and often facing open space. When combined with the wide grass verges and deep front gardens that are prevalent throughout the CA, the area has a distinctively open and green character. This part of Wheelers Lane differs from other streets in the CA in that the buildings are not arranged in pairs. However, the wide gaps between the low-profile dwellings, including the space on the appeal site between Nos 1 and 3a, allows for views between, over, and around the built form. The site therefore contributes positively to the open character of Wheelers Lane and the CA.
15. Whilst some side space would be retained between the proposed dwelling and the properties either side of it, the openness of the site would be significantly reduced due to the two-storey height and the footprint of the proposed dwelling, which would extend close to the boundary with No 3a. It would therefore have an enclosing effect on the street scene, reducing views that can currently be gained over the existing boundary fencing and between the buildings. A wider gap would be retained between the new dwelling and No 1. However, this space would be partly occupied by hardstanding and parked vehicles, which would diminish the visual separation between the properties. Overall, this loss of space would detract from the open character of this part of Wheelers Lane and the wider CA.
16. The proposed dwelling would be similar in its height and form to neighbouring properties, and it could be constructed with matching materials. However, this would not overcome the harm that would be caused through the loss of spaciousness owing to the scale and siting of the building proposed.
17. Overall, the proposal would fail to preserve or enhance the character or appearance of Wheelers Lane and the Stamford Green CA. Consequently, there

would be conflict with Policies CS1 and CS5 of the CS, and Policies DM8, DM9 and DM10 of the DMP which, taken together, seek to protect and enhance the built and historic environment, local character, and heritage assets including conservation areas. Owing to the scale and nature of the proposal, the degree of harm to the CA would be less than substantial, which I shall consider further in the overall heritage and planning balance below.

Living conditions

18. Given the narrow depth of the proposed rear garden, there would be a short back-to-back distance between the rear elevation of the proposed dwelling and the garden and rear wall of 85 Stamford Green Road. Whilst the bathroom window in the new dwelling could be obscured glazed, there would be direct and unobstructed views towards No 85 and its garden from the proposed rear bedroom window due to its two-storey height. This would result in the loss of privacy for the occupants of No 85, due to the proximity of the dwellings and the height and orientation of the window.
19. The proposal would, therefore, cause harm to the living conditions of the occupants of No 85, with particular regard to privacy. It follows that there would be conflict with Policy DM10 of the DMP insofar as it expects proposals to have regard to the amenities of occupants and neighbours, including in terms of privacy. Whilst the decision notice references Policy DM9 of the DMP in relation to this main issue, I have not found it pertinent to my considerations as it relates to townscape character and local distinctiveness, rather than living conditions.

Heritage and Planning Balance

20. The appeal proposal would cause harm to the significance of the Grade II listed 1 Wheelers Lane through development within its setting, and it would fail to preserve or enhance the character or appearance of the Stamford Green CA. In each case, the level of harm would be less than substantial. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of the level of harm. Paragraph 215 of the Framework requires the less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal.
21. There would be some social, economic, and environmental benefits arising from the development, which are also public benefits. The proposal would make more efficient use of this site in an existing settlement, where the evidence indicates that the Council is only able to demonstrate a housing land supply of 1.56 years. Given this is a significant shortfall against the Framework's requirement, I ascribe significant weight to the delivery of an additional housing unit on this small site, which could be built out reasonably quickly and would contribute to local and national housing needs.
22. The construction of the dwelling would also generate employment opportunities, and new residents could sustain and improve business for local trades in the longer term. However, the contribution that would be made by this single dwelling proposal would be modest. Consequently, these benefits carry moderate weight in favour of the scheme.
23. The proposal would deliver off-road parking spaces for use by the occupants of the listed building, and a designated garden area would be re-provided. However,

there is no substantive evidence before me to indicate that the existing on-street parking arrangements are harmful, or that the outdoor amenity space is insufficient. Therefore, I ascribe neutral weight to these matters which do not weigh in favour of the proposal.

24. No harm has been identified in respect of the principle of residential development on the site, the standard of the accommodation proposed, highways issues, biodiversity, landscaping, waste management, and sustainability. Based on the evidence, I see no reason to form a different view on these issues. The absence of harm weighs neither for nor against the proposal.
25. However, even allowing for the significant weight that housing delivery carries, the social, economic, and environmental benefits arising from the appeal proposal would not be sufficient to outweigh the great weight that the conservation of the designated heritage assets carry. The proposals therefore fail to accord with the historic environment protection policies in the Framework.
26. I have identified that the appeal scheme would conflict with the development plan policies identified above, which brings the proposal into conflict with the development plan when read as a whole. Developments that conflict with the development plan should normally be refused unless material considerations indicate otherwise.
27. Given the shortfall in the housing land supply, paragraph 11d) of the Framework is engaged. However, the appeal would cause harm to the significance of the Grade II listed 1 Wheelers Lane and the Stamford Green CA, which would not be outweighed by public benefits. The harm to the designated heritage assets provides a strong reason for refusing the development proposed under the provisions of paragraph 11d) i. of the Framework. Therefore, the presumption in favour of sustainable development does not apply in this case.

Conclusion

28. 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, for the reasons given above the appeal should be dismissed.

E Catcheside

INSPECTOR