



Appeal Decision

Site visit made on 29 November 2024 by R Parker BSc (Hons)

Decision by S Edwards BA MATCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2025

Appeal Ref: APP/P3610/D/24/3351068

3 Bramley Road, Cheam, Surrey SM2 7LR

- 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 Alex Neil against the decision of Epsom and Ewell Borough Council.
 - The application Ref is 24/00530/FLH.
 - The development proposed is described as 'Lower ground extension below patio. 3.5m ground floor pitched roof rear extension with 2 x skylights, rear doors and large window and internal alterations. First Floor Extension above existing ground floor porch with internal alterations. Loft conversion with adjustment to roof form and two characterful rear dormer windows to rear hip and skylight above flat part of roof.'
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues in this case are:
 - 1) The effect of the proposal on protected species;
 - 2) The effect of the proposal on the living conditions of the neighbouring occupiers of 1 and 5 Bramley Road (nos 1 and 5), with particular regard to daylight, sunlight and privacy; and
 - 3) The effect of the proposal on the character and appearance of the area.

Reasons for the Recommendation

Protected Species

4. The appeal site is within a Site of Special Scientific Interest (SSSI) Impact Risk Zone Area, proximal to wooded areas, open grasslands, and water courses, which indicate a reasonable likelihood that bats may be present. Buildings in this area may offer roosting opportunities for bats, which therefore may be affected by the proposed development. For these reasons, an ecological survey is required. As per Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System, 'the presence of a protected species is a material consideration when

considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.'

5. The Circular continues, 'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.' Therefore, unless exceptional circumstances apply, planning permission for a proposal where protected species are a consideration must be denied where an ecological survey has not been carried out prior to determination. Accordingly, it would not be appropriate to secure a survey via condition.
6. Although such a survey should have been requested by the Council at application stage, this does not represent exceptional circumstances justifying the grant of planning permission. Having regard to the presented evidence, there are no exceptional circumstances justifying the absence of ecological survey.
7. Therefore, by virtue of the absence of ecological information, potential harm to protected species of bats cannot be ruled out. Consequently, the proposal conflicts with Policies CS3 of the Epsom and Ewell Core Strategy 2007 (Core Strategy) and DM4 of the Epsom and Ewell Development Management Policies Document 2015 (DMPD). It also does not accord with paragraphs 187 and 193 of the National Planning Policy Framework (December 2024) and Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017. Collectively, these require the protection of certain species via the conservation and enhancement of biodiversity, the minimisation of effects of development, and the provision of mitigation measures.

Living Conditions

8. On my site visit I observed that the rear garden of the appeal property is substantially overlooked by a first-floor rear covered balcony extension at no 1. Due to the area's topography, a minor degree of overlooking is possible via the rear terrace at the same address, notwithstanding the fenced boundary between the properties. The appeal proposal would create a terrace to approximately the same extent as that at no 1, leading to a degree of mutual overlooking. Due to the minor nature of this overlooking, and its attenuation by fencing, it would not harm the privacy of occupants at no 1.
9. The difference in levels between the terraced portion at no 3 and the garden area of no 5 and fenced boundary mean that, at present, no 3 overlooks the far side of the garden at no 5. The proposed development would increase the depth of the existing terrace area significantly and, due to the topography, lead to harmful levels of overlooking into a large part of this neighbouring property's rear garden. This would have a harmful effect on the ability, for these neighbouring residents, to enjoy their outdoor amenity space. Whilst the plans refer to timber fencing, limited information has been provided in this respect. In the absence of further details, I cannot be certain that a condition regarding boundary treatments could satisfactorily overcome the harm which the development would cause to the living conditions of the occupiers of no 5.
10. Concerning the effect of the proposal on sunlight and daylight to the living conditions of the occupants of no 5, the portion of the proposed rear addition

above ground height would effectively be single storey, and it would not extend beyond the footprint of no 1 Bramley Road. The positioning of the three dwellings and the aspect of their plots, in combination with this would mean that any loss of day or sunlight would be minimal, and not result in harm to the living conditions of occupants at no 5.

11. The proposal would not cause harm with regard to loss of daylight or sunlight, and nor via loss of privacy to occupants at no 1. However, the appeal scheme would adversely affect the living conditions of the neighbouring occupiers at no 5, with particular regard to privacy. Therefore, in that respect, the proposal conflicts with Policy DM10 of the DMPD, which seeks to respect living conditions of occupants and neighbours. The proposal does not conflict with Policy DM9, as it does not relate to living conditions.

Character and Appearance

12. Bramley Road is wide and calm, with green verges and a cohesive feel despite some stylistic variation, resulting in a neighbourhood of peaceful suburban character. Houses are built to the same design, in the same era – although many have been altered, without detriment to the character or appearance of the area, which is partly derived from these cohesive elements. The road itself slopes, and the ensuing cascading appearance of the hipped front projecting overhangs on each roof is one of the defining features of the locality's appearance.
13. The appeal property appears to have been altered in the past but has a recognisable and harmonious interwar character due to its proportions, materials, and architectural detailing. The proposal would alter some aspects of its appearance, but crucial street-facing elements such as the property's two storey bow window with tiled course and hipped overhang would be retained.
14. The concerns raised by the Council relate primarily to the proposed crown roof and, as such, my recommendation attends to this aspect of the proposal. Although the pitch and style of the main roof would change and would increase in bulk, it would be seen in the context of existing stylistic variation within the roofscape and other, similar, alterations. Furthermore, the extent of the roof at ridge and eaves position would overall be unchanged. Therefore, while the original roofscape may be more interesting and harmonious than the appeal scheme, due to the design in context the proposed alterations would not result in a bulky appearance or dominating effect.
15. As outlined above, the proposed changes would alter the character and appearance of the host property but not to a harmful degree. These alterations would not affect the elements of the dwelling which complement and contribute to the surrounding area, thus also resulting in no harm to its character and appearance. Therefore, the appeal proposal does not conflict with Policies CS5 of the Core Strategy or DM9 and DM10 of the DMPD, which collectively seek to retain local distinctiveness and character via good design.

Conclusion and Recommendation

16. While the proposal would not harm the character and appearance of the host property or its surrounding area, this does not outweigh its harm to living conditions and protected species outlined above. The appellant has explained a

need for increased space. However, in view of the harm I have identified, this does not persuade me to reach a different conclusion.

17. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

R Parker

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

S Edwards

INSPECTOR