



Appeal Decision

Site visit made on 1 April 2025

by **J Heppell BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th May 2025

Appeal Ref: APP/L3625/W/24/3354669

296, 298 and rear of 300 Fir Tree Road, Epsom Downs, Surrey KT17 3NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Stephen Doel against Reigate and Banstead Borough Council.
 - The application Ref is 24/01547/F.
 - The development proposed is the construction of five dwellings following the demolition of 296 and 298 Fir Tree Road with access road, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of five dwellings following the demolition of 296 and 298 Fir Tree Road with access road, parking and landscaping at 296, 298 and rear of 300 Fir Tree Road, Epsom Downs, Surrey KT17 3NN in accordance with the terms of the application, Ref 24/01547/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. I note that the Council would have granted planning permission had it made a decision on the proposal. Planning permission for the construction of six dwellings has previously granted at appeal¹ and I have noted the details of the approved scheme.
3. The Council has confirmed that it supports the principle of development and that the proposal is acceptable having regard to design and character, neighbour amenity, housing mix, amenity of future occupiers, highway and parking matters, trees and landscaping, refuse collection, ecology, biodiversity net gain, affordable housing and community infrastructure levy, flooding and drainage, and sustainable construction and broadband.
4. Interested parties have however raised a number of concerns, including the proposal's impact on the character and appearance of the area and on neighbouring living conditions, along with other matters. I address these concerns below.

Main Issue

5. The main issue is the scheme's compliance with local and national policy, with particular regard to the character and appearance of the area, the living conditions of neighbouring properties, fear of crime, noise and disturbance during

¹ PINS Ref APP/L3625/W/24/3348491, LPA Ref 23/01945/F.

construction, impact on trees and wildlife habitats, flooding and drainage, and highway safety.

Reasons

6. The area is residential in character, characterised by a linear pattern of development, supplemented by a number of recent backland developments. The proposal would replace two dwellings (one of which had already been demolished at the time of my site visit) with five dwellings, four of which would be located in the rear part of the site in a backland form of development.
7. In regard to character and appearance, the positioning of the replacement dwelling at the front of the site, and the design of the access road, would together create a satisfactory frontage which is respectful of local character. The density and layout of the proposed dwellings to the rear would create an acceptable arrangement of properties which, having regard to the backland developments which have occurred in the immediate locality, would reflect the character of the area.
8. Turning to living conditions, the separation distance between the access road and no 300 Fir Tree Road would be sufficient to protect occupiers of that property from disturbance. The proposed frontage dwelling would project behind no 294 Fir Tree Road, but not to such a degree as to harm the outlook from that property's conservatory or result in loss of light. Although the properties to the rear of the appeal site are located on lower ground, the separation distance between these properties and the proposed dwellings would be sufficient to ensure there will be no overbearing impacts or loss of privacy.
9. The proposed development would be suitably enclosed by boundary treatment to minimise the risk of crime. Legislation exists to control disturbance to residents during the construction phase.
10. The trees which would be removed to facilitate the development are low quality, and a Tree Protection Plan has been prepared to ensure that the trees which are to be retained are protected during the construction phase. To ensure that no protected species are harmed, I can impose suitable conditions.
11. The appeal site lies outside any identified flood zone. The appellant has submitted a drainage plan to deal with surface water flood risk. I can impose a condition to ensure that mitigation measures proposed by the appellant are implemented and that a suitable foul drainage scheme is devised.
12. The proposal provides a safe means of access and sufficient parking to comply with the Council's adopted parking standards. I can impose conditions to ensure that the access and parking arrangements are implemented in accordance with the approved plans.
13. For these reasons, the proposal would accord with Policies DES1 and DES2 of the Reigate & Banstead Local Plan Development Management Plan, which together promote high quality design that makes a positive contribution to the character and appearance of its surroundings and provide detailed criteria for residential garden land development, including infilling schemes and back garden land.

Conditions

14. The Council has recommended that 24 conditions be imposed. The appellant has not raised objection to any of the suggested conditions. In assessing the need for the conditions, I have had regard to the policy requirements contained in the development plan.
15. I have not applied the Council's suggested condition requiring electric vehicle charging points to be installed since this is controlled by the Building Regulations. I have also not applied a condition requiring approval of a foul sewage disposal scheme since the appellant has the right to connect to the existing foul sewer.
16. The Council has sought a condition that removes 'permitted development' rights for extensions, but I consider that such a condition is unjustified as the proposal provides suitable amounts of amenity space and adequate separation distances, such that future occupiers should be able to benefit from these rights.
17. In the interests of certainty, I have imposed a time limit condition (No 1) and a condition listing the approved plans (No 2).
18. To ensure that the development is carried out without adverse impacts on neighbours' amenities or highway safety, a Construction Transport Management Plan is required to be approved before development commences (No 3). A pre-commencement condition is required because impacts could arise from the outset.
19. To ensure that trees and habitats are protected, the measures set out in the submitted tree reports (No 4) and ecology report (No 5) must be adhered to.
20. To prevent flooding, surface water must be suitably disposed of in accordance with the submitted drainage strategy (No 6).
21. Given the sloping nature of the site, I have imposed a condition requiring the approval of ground levels (No 7).
22. To ensure that the character and appearance of the area is preserved, conditions are needed to control external materials (No 8), boundary treatment (No 9) and landscaping (No 10).
23. I have attached appropriate conditions to ensure that ecological enhancement (No 11) and habitat management (No 12) are undertaken.
24. Energy and water efficiency measures (No 13) and the necessary infrastructure for high speed broadband (No 19) are required to ensure that the development is appropriately sustainable.
25. To encourage alternative modes of transport, the pedestrian access to the site should be enhanced (No 14) and adequate provision made for cycle storage (No 15).
26. Adequate car parking provision must be made (No 16) along with ensuring safe vehicular access to the site (No 17) and suitable bin collection arrangements (No 18).
27. To protect the privacy of existing residents, side-facing first floor windows must be obscure glazed (No 20) and the ability to add further windows at first floor and above under permitted development rights should be removed (No 21).

Conclusion

28. For the reasons given above the appeal should be allowed.

J Heppell

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 the following approved plans:
Proposed Block Plan 103 P2
Proposed Site Plan 105 P3
Proposed Street Scenes 106 P1
Plot 1 Proposed Floor Plans and Elevations 107 P1
Plot 2 Proposed Floor Plans and Elevations 108 P1
Plot 3 Proposed Floor Plans and Elevations 109 P1
Plot 4 Proposed Floor Plans and Elevations 110 P1
Plot 5 Proposed Floor Plans and Elevations 111 P1
Detached Garage Proposed Floor Plans and Elevations 112 P1
Proposed Site Section 113 P1
- 3) No development shall commence until a Construction Transport Management Plan, to include details of:
 - a) parking for vehicles of site personnel, operatives and visitors
 - b) loading and unloading of plant and materials
 - c) storage of plant and materials
 - d) programme of works (including measures for traffic management)
 - e) provision of boundary hoarding behind any visibility zones
 - f) heavy goods vehicle deliveries and hours of operation
 - g) vehicle routing
 - h) measures to prevent the deposit of materials on the highway
 - i) before and after construction condition surveys of the highway
 - k) on-site turning for construction vehicleshas been submitted to and approved by the Local Planning Authority. Only the approved details shall be implemented during the demolition and construction phases of the development.
- 4) The development shall be carried out in accordance with the measures set out within the Tree Protection Plan reference 23105-4, Arboricultural Impact Appraisal and Method Statement dated 31 July 2024, and Manual for Managing Trees on Development Sites (all prepared by Barrell Tree Consultancy).
- 5) The development shall be carried out in accordance with the measures set out within the Ecology Report by Applied Ecology dated 29 November 2023.
- 6) The drainage system shall be installed in accordance with the approved documents and drawings – Drainage Strategy Report Ref: 231709/DS/AG/KGL/02 dated 16/08/24, Existing Site Plan Drawing No. 004 Rev P1 dated 10/08/23, Proposed Site Plan Layout Drawing No.105 Rev P1 dated 08/07/24 and the Proposed Drainage Strategy Site Plan Drawing No. 231709/DS/02.

- 7) No development shall take place below ground until the developer obtains the Local Planning Authority's written approval of details of both existing and proposed ground levels and the proposed finished ground floor levels of the buildings. The development shall be carried out in accordance with the approved levels.
- 8) No development above ground level shall take place until written details of the materials to be used in the construction of the external surfaces, including fenestration and roofs, have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.
- 9) The development hereby permitted shall not be first occupied until boundary treatments have been installed in accordance with details first submitted to and approved in writing by the Local Planning Authority. These details shall include a plan indicating the positions, design, materials and type of boundary treatment to be erected, including provisions for wildlife access.
- 10) The development hereby permitted shall not be first occupied 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. Landscaping schemes 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 programme.

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

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

- 11) The development hereby approved shall not be first occupied until an Ecological Enhancement Plan (EEP) has been submitted to and approved in writing by the Local Planning Authority. The EEP should be based on the impact avoidance, mitigation and enhancement measures specified in the Preliminary Ecological Appraisal and should include, but not be limited to, the following.
 - a) Description and evaluation of features to be provided
 - b) Location plan of all ecological enhancement features being provided
 - c) Ecological trends and constraints on site that might influence management
 - d) Prescriptions for management actions
 - e) Ongoing monitoring and remedial measures

The development shall be built out in accordance with the EEP unless otherwise agreed in writing by the Local Planning Authority.

- 12) The development hereby permitted shall not be first occupied until a Habitat Management and Monitoring Plan (HMMP) has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall include:
- a) Details of significant on-site habitat creation / enhancements to be included in the development hereby permitted.
 - b) Details of how the significant on-site habitats on site shall be managed.
 - c) Details and schedule of monitoring of habitats on the site including how and when monitoring will take place and how and when management proposals shall be reviewed.
 - d) Any changes to the management of the habitat to achieve the habitats or wider outcomes.
- The HMMP shall be implemented as approved for a minimum period of 30 years.
- 13) The development hereby permitted shall not be first occupied until an Energy and Water Efficiency Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall detail how the development will:
- a) Ensure that the potential water consumption by occupants of each new dwelling does not exceed 110 litres per person per day
 - b) Achieve not less than a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the 2013 Building Regulations.
- The development shall be carried out in accordance with the approved details and any measures specific to individual dwellings shall be implemented, installed and operational prior to its occupation.
- 14) The development hereby permitted shall not be first occupied until the improvements to the steps on Rose Bushes adjacent to Right of Way 633 have been constructed in accordance with the approved plans (Drawing No.0050_SK 100).
- 15) The development hereby permitted shall not be first occupied until facilities for the secure, covered parking of bicycles, and the provision of a charging point for e-bikes, have been provided within the development site in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be retained.
- 16) The development hereby permitted shall not be first occupied until the parking and turning spaces shown on the approved plans have been laid out and made available for parking and turning. The parking and turning spaces shall thereafter be retained and kept available for their designated purposes at all times.
- 17) No part of the development hereby permitted shall be first occupied until the proposed vehicular access to Fir Tree Road has been constructed in the form of a Copenhagen access as shown in Drawing No.105 Rev P1, and provided with a means of preventing surface water runoff from entering the highway, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
- 18) No dwelling hereby permitted shall be first occupied until bin stores and collection points have been installed in accordance with details first submitted

to and approved in writing by the Local Planning Authority. These details shall include pulling distances where applicable, and bin stores will be of an adequate size to accommodate the bins and containers required for the dwellings which they are intended to serve, in accordance with the Council's guidance contained within Making Space for Waste Management in New Development.

- 19) All dwellings within the development hereby approved shall be provided with the necessary infrastructure to facilitate connection to 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 upgradingThe development shall be carried out strictly in accordance with the details as approved and maintained as such thereafter.
- 20) The first floor windows in the side elevations of plots 2-5 hereby permitted shall be glazed with obscured glass which shall be fixed shut to a height of 1.7 metres above internal floor level, with a top hung opening fanlight above, and shall be maintained as such at all times.
- 21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no first floor windows, dormer windows or rooflights within Schedule 2 Part 1 Classes A, B or C, other than those expressly authorised by this permission, shall be constructed.

End of schedule