
Appeal Decision

Site visit made on 10 June 2025

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2025

Appeal Ref: APP/D3640/W/25/3358775

5 Tekels Park, Camberley, Surrey GU15 2LE

- 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 Martin Payne against the decision of Surrey Heath Borough Council.
 - The application Ref is 24/0490/FFU.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted an additional plan with the appeal documents showing the proposed street scene. As this does not alter the proposal for the site, my consideration of this plan would not cause procedural unfairness or prejudice to interested parties. Therefore, I have had regard to this additional plan in my determination of the appeal.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed scheme would meet the statutory requirements for the provision of biodiversity net gain;
 - the effect of the proposal on protected species, with particular regard to bats and badgers;
 - whether the proposed development would increase flood risk, with particular regard to surface water run-off; and
 - the effect of the proposal on the living conditions of the occupiers of 5 Tekels Park, and whether acceptable living conditions would be provided for future occupants, with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site comprises a two storey house on a large plot in a residential area with a mix of dwelling styles. The site rises away from the road and a single storey pitched roof garage is set into the slope, with a raised area of garden behind. There is a pocket of more dense housing development at The Walled Garden and Dunmar Gardens on the opposite side of the lane. Nevertheless, this side of Tekels Park is characterised by detached dwellings in substantial grounds with sizeable gaps between the buildings, and boundary hedgerows and trees. This gives the area a spacious and verdant character.
5. The site is within the Wooded Hills Housing Character Area (CA) identified in the Western Urban Area Character Supplementary Planning Document 2012 (SPD). The SPD outlines that this CA has a semi-rural residential character, with hilly areas, large irregular plots, and heavy vegetation amongst other things. Pressures on the CA include the progressive loss of large irregular plots and urbanisation of the semi-rural character through loss of dense vegetation.
6. The SPD sets out several guiding principles for the CA. Amongst other things, these require buildings to be set in spacious plots with extensive space between and around buildings. They seek to resist erosion of the soft green semi-rural character and proposals involving closely set buildings, cramped appearances and net densities above 9 dwellings per hectare which are contrary to the prevailing development form. In addition, principle 7.4 of the Council's Residential Design Guide Supplementary Planning Document 2017 (RDG) requires new residential development to reflect the spacing of existing buildings, amongst other things.
7. The part two storey dwelling, with a mono-pitched single storey side element and a flat roofed single storey rear projection, would have a traditional design, uniform window arrangement and finishes to reflect the host dwelling. However, whilst the new structure would be set back a similar distance from the front boundary and slightly further from the boundary with 3a Tekels Park (No 3a) than the garage, it would be significantly higher and wider than the existing building.
8. The proposed house would have a lower ridge height than No 3a with reasonable gaps between it and the adjacent dwellings. However, the new plot would be around 12m wide, substantially narrower than the other properties on this side of Tekels Park, with only small gaps of around 0.6m and 2m between the proposed building and side boundaries. In addition, the garden would be significantly smaller than neighbouring properties to the north, east and south. Due to the narrow plot width, small garden and minimal space beside the building, the proposal would create a significantly denser development than currently exists on this side of Tekels Park, giving the scheme a cramped appearance in views from the lane.
9. Much boundary landscaping would be retained, but the widened access onto the lane would require removal of part of the roadside hedge. A large area of grass in front of the host dwelling would also be replaced with hardstanding for parking and manoeuvring vehicles. The loss of some hedgerow and the significant addition of hardstanding would have an unduly urbanising effect, harming the green and verdant character of the site and lane.

10. There is reference to the Council's approval of the dwelling at 5a Tekels Park (No 5a) in 2014¹ when the same policies applied. However, No 5a is a wider, larger plot, with a bigger garden and more space to the sides of the building than the appeal scheme. Thus, it is not comparable to the proposed development.
11. Therefore, I conclude that the proposal would harm the character and appearance of the area. This would conflict with Policy DM9 of the Council's Core Strategy & Development Management Policies 2011-2028 (CSDMP) where it requires development to be of a high quality design and respect the local character of the environment.

Biodiversity net gain

12. There is now a requirement under the Town and Country Planning Act 1990 for developments to provide 10% biodiversity net gain (BNG). There are specific exemptions from this and the general BNG condition does not apply to development subject to the de minimis exemption. This comprises development that does not impact a priority habitat and impacts less than 25 square metres of any habitat or 5m of any linear habitat.
13. The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires a statement setting out why a permission would or would not be subject to the condition, with reasons for that belief.
14. Grassland is not priority habitat but is a habitat for the purposes of applying the BNG condition. The planning application form indicates that the proposed development is subject to the de minimis exemption as it is below the threshold, but no BNG metric and statement has been submitted.
15. A large area of grass would be removed to accommodate an enlarged driveway and parking, with the proposed house and patio also impinging on a significant amount of grassland. Although the amount of grassland to be lost is not specified, from my observations on site and the plans before me, it appears that the proposal could result in the loss of more than 25 square metres of habitat. In the absence of evidence to the contrary, I cannot be certain that the proposal would meet the de minimis exemption and the BNG condition would not apply.
16. Therefore, I conclude that it has not been demonstrated that the proposed scheme would meet the statutory requirements for the provision of BNG.

Protected species

17. Bats are a European Protected Species protected under the Conservation of Habitats and Species Regulations 2017. Badgers and their setts are protected by the Protection of Badgers Act 1992. Both species are also protected under the Wildlife and Countryside Act 1981.
18. ODPM Circular 06/2005 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It further states that 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

¹ Planning application ref 14/0227

planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

19. The preliminary roost assessment (PRA) indicates that the existing outbuilding has low value for roosting bats due to the gaps under the timber fascia boards which could allow bats to roost. The proposal would result in the demolition of this building which could lead to the destruction of any bat roost present and could cause disturbance, death or injury to bats. The PRA outlines that a bat emergence or re-entry survey is required during the active bat season (optimally May to August) to confirm presence or likely absence of a bat roost in the building. No such survey has been submitted.
20. In the absence of a bat activity survey, and based on the information before me, the presence of bats cannot be ruled out and I cannot be certain as to the extent to which they may be affected. Furthermore, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required.
21. The appellant states that the bat activity survey could be secured via a suitably worded condition. However, this would not be appropriate in light of the legal protection given to bats and the need to determine potential impacts on them in advance of any permission.
22. Badgers are very active in the locality and there are known badger setts in the area. The PRA does not consider badgers and there is no survey to indicate whether badgers use the site and surrounding areas or if there are setts on or near the development site. Without this information, I cannot be satisfied that the proposed scheme would not adversely affect protected badgers.
23. Consequently, I conclude that it has not been demonstrated that the proposal would not harm protected bats and badgers. This would conflict with Policy CP14A of the CSDMP where it seeks to conserve biodiversity and does not permit development that results in harm to or loss of features of interest for biodiversity.

Flood risk

24. The appeal site is within flood zone 1 so it is at low risk of river and sea flooding and a flood risk assessment is not required. Although there is already a sizeable garage and existing areas of tarmac, the proposal would significantly increase the areas of hardstanding and built development on the site. There would also be some level changes, including cutting into the existing bank.
25. Policy DM10 of the CSDMP sets out the Council's approach to development and flood risk. It requires development to reduce the volume and rate of surface water run-off by incorporating appropriately designed sustainable drainage systems at a level appropriate to the scale and type of development. This reflects the National Planning Policy Framework (the Framework).
26. The Council's drainage officer states that all new buildings and hard surface areas require surface water attenuation for a worst-case scenario of a 1 in 100 year rainfall event, plus climate change allowance. Nevertheless, no information on attenuation or porous surfaces has been provided.
27. The appellant would accept a condition requiring details of surface water run-off. However, there would be significant additional development including changes to land levels and it is unclear how reduced surface water run-off would be achieved

in accordance with Policy DM10. Thus, such details are required prior to making the decision.

28. Therefore, there has been a failure to demonstrate that the proposal would not increase flood risk with regard to surface water run-off. This would conflict with Policy DM10 of the CSDMP.

Living conditions

29. The RDG recognises the importance of privacy so that people can enjoy their private outdoor spaces without feeling overlooked or overheard. It outlines that habitable rooms and the first 3m of private space behind a rear elevation is an area of particular sensitivity. The RDG sets out a minimum distance of 20m between the rear of two storey buildings directly facing each other, with a possible 15m separation distance for two storey rear to side relationships.
30. The proposal would include a new lower level rear patio and use of part of the existing higher level lawn as the rear garden. The host dwelling at 5 Tekels Park (No 5) has two bedroom windows facing the proposed rear outdoor spaces, at a similar level to the lawn. There are various large shrubs on the bank between the existing house and lawn which provide some screening of this area.
31. There would be a minimum separation distance of at least 6.7m between No 5 and the proposed dwelling, significantly below the distances set out in the RDG. Due to the small separation distances and position of the existing first floor windows relative to the proposed rear outdoor areas, there would be mutual overlooking between two bedrooms at No 5 and the proposed patio and garden.
32. However, this could be mitigated by further screen planting along the bank and the Council has suggested a condition requiring details of soft landscaping works to be submitted and approved. I am satisfied that appropriate planting would protect the privacy of occupiers of the host dwelling and ensure that future residents of the proposed property have access to adequate private amenity space.
33. Consequently, I conclude that the proposal would not harm the living conditions of the occupiers of 5 Tekels Park, and would provide acceptable living conditions for future occupants, with particular regard to privacy. This would accord with Policy DM9 of the CSDMP where it requires development to provide sufficient private amenity space and respect the amenities of occupiers of neighbouring property.

Other Matters

34. The Council did not find harm or development plan conflict in relation to several other matters, including the principle of residential development, impacts on heritage assets and trees, internal space standards, parking provision and highway safety. Nevertheless, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposed development.
35. The proposal would be likely to have a significant effect, either alone or in combination, on the Thames Basin Heaths Special Protection Area due to its location within 5km of it. However, notwithstanding the unilateral undertaking to pay towards mitigation measures in the SAMM², given my conclusion below there

² Strategic Access Management and Monitoring project

is no need to consider the implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

36. The Council accepts that it cannot currently demonstrate a five year housing land supply required by the Framework. As there is a shortfall in housing provision, paragraph 11(d) of the Framework is engaged.
37. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies including directing development to sustainable locations, making effective use of land and securing well-designed places.
38. The Framework seeks to significantly boost housing supply and highlights the important contribution small and medium sized sites can make. The scheme would make a modest contribution of one home to the supply of housing, making better use of a site within the settlement boundary of Camberley which has local services and facilities. It would contribute towards Surrey Heath's housing supply, making a modest difference to addressing the shortfall, and therefore I attribute moderate weight to this benefit.
39. The appellant considers that the site is previously developed land, but the Framework's definition of this excludes land in built-up areas such as residential gardens. As the proposed scheme would include developing parts of the existing garden, it would not entirely involve the development of previously developed land, which limits the weight I can attribute to this.
40. In contrast, the proposal would significantly harm the character and appearance of the area. There has also been a failure to demonstrate that the proposed scheme would meet the statutory requirements for BNG provision, not harm protected species and not increase flood risk. This would conflict with the Framework where it requires developments to be sympathetic to local character, minimise impacts on and provide net gains for biodiversity, and ensure that developments do not increase flood risk elsewhere. The proposal would also be contrary to Policies DM9, DM10 and CP14A of the CSDMP. Indeed, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
41. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

A Wright

INSPECTOR