
Appeal Decision

Site visit made on 27 October 2016

by AJ Steen BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 December 2016

Appeal Ref: APP/K3605/W/16/3153965

Land adjacent to 20 Holstein Avenue, Weybridge, Surrey KT13 8NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Weeks of Runnymede Homes (Developments) Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2016/0638, dated 24 February 2016, was refused by notice dated 11 May 2016.
 - The development proposed is the erection of a terrace of three 4-bed 3-storey dwellings over parking basement; with associated access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking (UU) was submitted during the course of the planning application that related to contributions toward affordable housing provision and Strategic Access Management and Monitoring (SAMM). At approximately the time the application was determined, the Court of Appeal issued judgment in the case of Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441. This confirms that the policies in the Written Ministerial Statement of 28 November 2014 (WMS) relating to contributions toward affordable housing and tariff-style planning obligations on small scale development should be treated as a material consideration in the determination of appeals.
 3. In response to that judgment, the appellant submitted two further UUs that dealt with affordable housing provision and SAMM contributions separately. The Council commented on them and suggested that both of these UUs were flawed, but did not comment on the judgment. In light of the Council comments, the appellant has confirmed that they wish to rely on the original UU rather than the later versions. As a result, I have not taken account of those later versions.
 4. I am aware of other appeal decisions where Inspectors have held that Policy CS21 of the Elmbridge Core Strategy (CS) should outweigh the WMS. However, in this instance no evidence has been presented to suggest that should be the case. The development plan, including the CS, has statutory status under Section 38(6) of the Town and Country Planning Act 1990 but the WMS is a material consideration of more recent date. In the absence of any evidence to
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the contrary in this case, I conclude that Policy CS21 of the CS is outweighed by the more recent WMS. On that basis, I have given little weight to the submitted UU insofar as it relates to contributions toward affordable housing.

5. The Council have confirmed that the site is outside the Thames Basin Heaths Special Protection Area buffer zone, such that the contribution toward SAMM is not required. Consequently, I have not taken account of this element of the UU in coming to my decision.

Main Issues

6. The main issues are:

- the effect of the proposed dwellings on the character and appearance of the surrounding area; and
- the effect of the proposed dwellings on the living conditions of neighbouring occupiers at 20 Holstein Avenue with particular regard to privacy and outlook.

Reasons

Character and appearance

7. Holstein Avenue is a primarily residential street of mainly Victorian and Edwardian detached, semi-detached and terraced dwellings located to the rear of Church Street and High Street in Weybridge. To the end of the road and to the side of 20 Holstein Avenue is an area of parking, with the rear of the commercial properties fronting Church Street and High Street up to the road at this point. The parking area comprises hard standing with tall brick walls to three sides and temporary security fencing to the front and is of limited depth behind the shared access drive with the car park beyond. Beyond the brick walls to the rear of the site is the car park relating to the neighbouring hospital.
8. The proposals comprise a short terrace of three storey houses at right angles to the regularly spaced existing dwellings that front the road. The side of the proposed terrace would protrude forward of no. 20, the closest existing dwelling, such that it would be prominent in views along the street.
9. The proposed building would be formed of small modular blocks of rendered and brick panels, with a variety of window shapes and sizes that would contrast with the more traditional and consistent use of materials along the road. The proposed dwellings would have flat roofs of a variety of heights, the highest of which are taller than the adjacent two storey houses. This would result in a complicated shape and design to the proposed building and, combined with its prominent location facing directly along Holstein Avenue, would contrast with the design of other buildings in the road. As a result, the proposed building would appear incongruous and out of character with surrounding development.
10. I note that there are a number of other contemporary buildings in the locality, but these are of simpler design and in less prominent locations such that they have a different effect on their surroundings.
11. For these reasons, I conclude that the proposed terrace of three houses would harm the character and appearance of the surrounding area. As such, the proposed development would be contrary to Policies CS4 and CS17 of the CS, Policy DM2 of the Development Management Plan (DMP) and the National

Planning Policy Framework (the Framework) that seeks high quality design that preserves or enhances local character, including supporting innovative contemporary design that embraces sustainability and improves local character.

Living conditions

12. 20 Holstein Avenue contains windows to the side that overlook the site of the proposed development. The rear of these appears to be a secondary window that serves a bedroom, the foremost side window is obscure glazed to the bottom half and appears to serve a bathroom. The front of Plot 3 of the proposed development would face toward that rear window, with two bathroom windows and a bedroom window proposed in this elevation that would face toward the side of no. 20.
13. Whilst these windows would face toward that neighbouring property and the side window, there would be a substantial distance between the windows such that, combined with obscure glazing to the bathroom windows, it would not result in overlooking of those neighbouring occupiers.
14. Although the proposed development would be taller than the neighbouring property, the rearmost window in no. 20 is a secondary room window and is some distance from the proposed building such that the proposed development would not be overbearing on the living conditions of occupiers of that neighbouring property.
15. For these reasons, I conclude that the proposed terrace of three dwellings would not harm the living conditions of occupiers of 20 Holstein Avenue by reason of loss of privacy and harm to their outlook. As such, the proposed development would comply with Policies CS17 of the CS, Policy DM2 of the DMP and the Framework that seek to protect the living conditions of adjoining occupiers, including their outlook and privacy.

Conclusion

16. On the basis of the above considerations, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR