

Appeal Decision

Site visit made on 11 April 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 5 May 2017

Appeal Ref: APP/K3605/W/16/3160272

15 Portsmouth Road, Thames Ditton, Surrey KT7 0SY

- 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 Ms T Quinlan against the decision of Elmbridge Borough Council.
 - The application Ref 2016/0992, dated 10 March 2016, was refused by notice dated 28 June 2016.
 - The development proposed is the erection of a three-storey detached town house on garden land to the side of existing house and two-storey rear extension to the existing house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development should make provision for affordable housing;
 - The effect of the proposed development on the character and appearance of the surrounding area; and
 - The living conditions of occupiers of 17 Portsmouth Road, with particular reference to outlook.

Reasons

Affordable Housing

3. The proposal is for a single dwelling situated within the side garden area of 15 Portsmouth Road. The appellant's Design and Access Statement (DAS) acknowledges the Council's requirement for affordable housing, as set out in Elmbridge Core Strategy (CS) policy CS21. However, although the DAS states that this requirement will be addressed by way of either the 'necessary legal agreement' or alternatively a financial viability assessment to be submitted during the course of the application, the absence of a contribution towards affordable housing formed one of the Council's refusal reasons.
4. Whilst neither a legal agreement nor a financial viability assessment were submitted with the planning application, the appellant's subsequent Planning Appeal Statement refers instead to the Starter Homes Written Ministerial Statement¹ (SHWMS) as a basis for not making provision for affordable housing

¹ Housing of Commons: Written Ministerial Statement (HCWS324) 2 March 2015

- contributions. However, no evidence has been submitted to demonstrate how or why the proposal could be considered to be a starter home scheme.
5. The Council has not submitted an appeal statement, instead relying upon its officer report and a statement² relating to the Written Ministerial Statement of 28 November 2014³, to set out the Council's case regarding affordable housing. The WMS, and the subsequent Court of Appeal judgement⁴ in respect of a challenge to the WMS, are the more commonly quoted references in respect of affordable housing contributions on sites delivering fewer than 10 dwellings but the appellant is nonetheless correct in making reference to the circumstances in which affordable housing contributions should or should not be sought.
 6. However, my determination of the appeal, as required under section 38(6) of the Planning and Compulsory Purchase Act 2004, must be in accordance with the development plan unless material considerations indicate otherwise. CS policy CS21 requires that for sites of four dwellings or less a financial contribution will be sought, equivalent to the cost of 20% of the gross number of dwellings, to be secured by way of a legal agreement. Further, the Council's statement² sets out the basis upon which affordable housing contributions will continue to be sought, noting that there is a continuing need for the provision of affordable homes within the Borough. In addition, it also notes that small site schemes have not only provided 50% of the total net amount of homes built since adoption of the Core Strategy but have also been a significant source of funding for affordable housing.
 7. Thus, whilst I attach great weight to the provisions of the WMS and Guidance advice in respect of affordable housing contributions on small sites, I am satisfied that the Council's approach as set out in CS policy CS21, the Developer Contributions Supplementary Planning Document (SPD) and their statement² together provide sufficient flexibility to respond to a range of circumstances whilst seeking to address a significant need for affordable housing within the Borough, recognising the importance of small sites in contributing to affordable housing supply. The appellant has not sought to argue that the development plan requirements in this respect would raise issues with the viability of the development, nor have I been provided with any compelling evidence to lead me to conclude that the Council's approach more broadly represents the disproportionate burden to developers of small sites that the WMS sought to avoid.
 8. Whilst I attach great weight to the WMS and the Guidance in respect of seeking contributions, this should not outweigh the provisions of the development plan for the reasons I have set out, and specifically CS policy CS21 thereof. In seeking to continue to secure affordable housing from small sites, I find that the Council has not acted in a manner inconsistent with the National Planning Policy Framework's (the Framework) promotion of the provision of affordable housing and the proposal is contrary to CS policy CS21, and I find that the absence of provision for affordable housing counts against the proposal.

² Elmbridge Borough Council: Statement on the Written Ministerial Statement.... June 2016

³ House of Commons: Written Statement (HCWS50) 28 November 2014

⁴ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

Character and Appearance

9. I observed Portsmouth Road in the vicinity of the appeal site to have a pleasingly verdant appearance. The mix of hedges and shrubs along the roadside boundaries, interspersed with more mature trees within and between the front garden areas, soften the distinctive low brick and stone boundary walls that separate the front gardens from the pavement.
10. Notwithstanding the low stone wall at the front of No 15 however, the appeal site has a relatively open feel to its frontage, with a small area of lawn behind the low front boundary wall. With the exception of a row of three low, bushy, evergreen trees positioned immediately in front of the building's façade and front door, No 15 lacks the more verdant frontages of other properties.
11. The proposal would retain the majority of the existing stone wall across the site's frontage, a feature that the appellant rightly identifies as being a consistent presence along this part of Portsmouth Road. However, the much enlarged area of hardstanding to provide parking and manoeuvring space for both the existing and proposed dwelling would dominate the front of both properties. Although this would not necessarily alter the overall sense of openness at the front of the plot, it would transform an otherwise pleasant front garden into an enlarged, hard surfaced forecourt which would, I find, be jarringly out of character with properties in the surrounding area.
12. My attention has been drawn to other examples of properties nearby that have extensive areas of hardstanding, particularly properties opposite at Kingsdown and a new development of town houses a short distance away. Whilst these are noted, I did not find them to be a defining feature, nor to be particularly representative of the prevailing character or appearance of the surrounding area.
13. Thus, I conclude that the large area of hardstanding to provide parking and turning space would dominate the front of both the existing property at No 15 and that of the proposed dwelling, in a manner that would be harmfully at odds with the prevailing character and appearance of the surrounding area. The proposal would therefore be in conflict with policies DM2 and DM10 of the Elmbridge Development Management Plan 2015 (DMP) and CS policies CS8 and CS17. Together, these policies seek to achieve high quality design with particular regard to, amongst other factors, local character and the prevailing pattern of development, and are consistent with one of the Framework's core planning principles of seeking to secure high quality design.
14. The extensions to No 15 would be confined to the rear of the property. The Council conclude that as they would not be widely visible from public vantage points they would not have any adverse impact upon the streetscene or the general character of the area. I see no reason to reach a different conclusion, and whilst this weighs modestly in favour of the proposal it is not sufficient to outweigh the harm I have identified above.

Living Conditions – 17 Portsmouth Road

15. There are three windows on the side elevation of No 17 that face towards the appeal site. Of these, the front two windows are positioned forward of where the proposed building's front elevation would sit. Although the rearmost window would face directly towards the flank wall of the proposed dwelling,

there would be a distance of over 3 metres between it and the flank wall whilst the relative positions of window and proposed dwelling would ensure an outlook towards Portsmouth Road, albeit somewhat restricted, would be retained from the rearmost window.

16. The Council have not drawn my attention to the presence of any minimum stand-off distances that are applicable in such circumstances. I have no reason to doubt the appellant's suggestion that the resulting relationship between No 17 and the proposed dwelling would be similar to the prevailing form and pattern of development along Portsmouth Road, and from my observations I noted that ground levels at No 17 are higher than those at No 15.
17. The Council conclude that the proposal would not lead to any adverse loss of light to the front and rear facing habitable areas at No 17, that there would be no significant effect in terms of loss of light to the side facing window, and that there would be no loss of privacy to the occupiers of that property. I see no reason to disagree with these conclusions and together they lead me to conclude that the proposal would ensure that an appropriate outlook, and adequate levels of daylight, sunlight and privacy would be retained. Thus, I find that the proposed dwelling would not result in harm to the amenities or living conditions of occupiers of 15 Portsmouth Road, and there would, therefore be no conflict with DMP policy DM2 or CS policies CS8 and CS17.

Other Matters

18. The Council are concerned that the proposed arrangement at the front of the existing and proposed dwellings would cause harm to the living conditions of occupiers of No 15 in terms of noise and disturbance from the comings and goings of the proposed dwelling. However, as I have already found that the proposed arrangements in this respect would be harmful to the character and appearance of the surrounding area, this situation would not arise and I have not therefore considered the matter further.
19. I note that the proposed access, parking and manoeuvring arrangements have not received any objections from the local highway authority in terms of highway safety. This does not however outweigh the harm to character and appearance that I have identified above and does not alter my conclusions in respect of the main issues.

Conclusion

20. I have found that the proposal would fail to make provision for affordable housing and would, by virtue of the large and dominating area of hardstanding at the front of both No 15 and the proposed dwelling, be harmful to the character and appearance of the surrounding area. Although there are other factors that count in favour of the proposal, these have not been sufficient to outweigh the harm that I have identified
21. For the reasons set out therefore, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie INSPECTOR