
Appeal Decision

Site visit made on 13 February 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 11th May 2017

Appeal Ref: APP/K3605/W/16/3164019

14 Burwood Road, Hersham, Walton-on-Thames KT12 4AG

- 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 Gable Homes Ventures Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2016/2544, dated 29 July 2016, was refused by notice dated 10 October 2016.
 - The development proposed is erection of a terrace of 3 No. three-bedroom dwellings with car parking, waste/recycling bins and cycle storage, following demolition of the existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a terrace of 3 No. three-bedroom dwellings with car parking, waste/recycling bins and cycle storage, following demolition of the existing dwelling at 14 Burwood Road, Hersham, Walton-on-Thames KT12 4AG in accordance with the terms of the application, Ref 2016/2544, dated 29 July 2016, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Gable Homes Ventures Ltd against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. At application stage, the information provided to the Council did not include anything of substance in relation to surface water flooding. However, as part of the appeal documents, the appellant has provided a Flood Risk Assessment and Surface Water Drainage Strategy¹. The Council has had the opportunity to comment on this within its appeal statement but has chosen not to do so. I am therefore satisfied that I can take the document into account without prejudicing the Council's case.

Main Issues

4. The main issues in this appeal are (i) the effect of the proposal on the Burwood Road street scene; (ii) its effects on flooding; and (iii) whether the financial

¹ Document by Nijhuis H2OK Ltd ref J-11031-01-HS dated 15 November 2016

contribution sought by the Council towards affordable housing is reasonable and necessary to make the proposal acceptable in planning terms.

Reasons

Burwood Road street scene

5. The appeal site is currently occupied by a detached bungalow and lies on the northern side of Burwood Road. The Burwood Road street scene is formed mainly by two-storey terraced, semi-detached and detached dwellings of varying age, style and height. There is also a three-storey block of flats located a short distance to the west. The existing bungalow and its garage span much of the width of the plot and the site therefore has a wider frontage than most of the surrounding properties.
6. Although the street scene is therefore varied, with the exception of the flats, there is nonetheless some commonality in the predominantly two-storey character of the dwellings immediately surrounding the appeal site. The existing bungalow and its comparatively wide frontage therefore contrast with the character and appearance of its surroundings. Moreover, the site is almost opposite Burwood Road's junction with Burwood Close and therefore occupies a relatively prominent location, which amplifies the bungalow's contrasting character. It therefore appears as something of an anomaly in the street scene.
7. The proposal would result in a building with an overall greater bulk, mass and height than its immediate neighbours. However, a substantial separation distance would be maintained between the proposed end dwelling and the existing one next door to the west, and the taller dwelling forming no. 8 Burwood Road. This relationship would prevent any sharp change in height between neighbouring buildings. Whilst the proposed building would be closer to the existing dwelling to the east, it would generally reflect the relationship between no. 8 and 10 Burwood Road. Notably, the latter is substantially taller than the former and is similar in height to the highest part of the proposed dwellings' roof.
8. The proposed building's bulk and mass would be broken up by the use of a stepped roof line and set back of the westernmost dwelling, variously sized dormers and a broadly central front gable. Although joined together, the three proposed units would clearly appear as individual dwellings.
9. For these reasons, the proposed building would appear less anomalous than the existing bungalow, thus being in greater harmony with the overall street scene.
10. I accept that the proposed frontage parking arrangement would introduce a substantial amount of hardstanding. However, the proposal includes landscaped strips along the frontage either side of the access and returning along the site's side boundaries. In combination with the proposed replacement tree, this would largely serve to obscure parked cars from view and I do not consider that there would be any significant harm to the street scene.
11. Taking all of this into account, the proposal would not conflict with Policy CS17 of the Elmbridge Core Strategy (2011) (CS) that requires development to integrate sensitively into the distinctive townscape.

12. It would also accord with Policy DM2 of the Elmbridge Development Management Plan (2015) (DMP) that, amongst other things, requires development to achieve high quality design based on an understanding of local character. The Council's decision notice also refers to DMP Policy DM10 that amongst other things includes design-related objectives and with which the proposal would be in general accordance. Furthermore, I do not find any conflict with the requirement for good design set out in the national Planning Policy Framework (the Framework).

Flooding

13. Development at risk of flooding should be avoided by directing it away from areas at highest flood risk. An area at risk of flooding means land within Flood Zones 2 and 3 or land within Flood Zone 1 where it has critical drainage problems. The site is within Flood Zone 1 and is not therefore at risk from fluvial flooding. However, flooding can happen for other reasons and the Council's Flood Risk Supplementary Planning Document (2016) (SPD) identifies the site as being within an area of medium probability of surface water flooding. In this circumstance a Flood Risk Assessment is required to accord with the provisions of CS Policy CS26 and the Flood Risk SPD.
14. The appellant's Flood Risk Assessment and Surface Water Drainage Strategy document provides detailed calculations that have led to two options being suggested for a Sustainable Drainage Scheme (SuDS).
15. There is nothing before me to suggest that the information within the document does not meet the development plan and SPD requirements with regard to the appropriate level of information. Moreover, I have no reason to doubt the conclusions reached within the document that the run-off from the development cannot be managed on site by means of a SuDS scheme based on one of the options set out.
16. I am therefore satisfied that a SuDS scheme could be incorporated into the proposed development based on either of the options set out in the appellant's Surface Water Drainage Strategy, without any major alterations to the scheme. As such this matter could be adequately addressed by means of a suitably worded planning condition.

Affordable housing

17. The proposal would result in a net increase of two dwellings following the demolition of the bungalow currently on the site.
18. Policy CS21 of the Elmbridge Core Strategy (2011) (CS) requires new residential development to make provision for affordable housing in support of the Council's aim to deliver at least 1150 affordable homes by 2026. For proposals comprising 1-4 dwellings, the Council seeks a financial contribution equivalent to the cost of 20% of the gross number of units. This would be secured by a planning obligation, ring fenced and spent on off-site provision. The Council's Developer Contributions Supplementary Planning Document (2012) (SPD) sets out amongst other things, the Council's approach to seeking affordable housing contributions. In respect of affordable housing, the SPD hangs off CS Policy CS21. The appellant is unwilling to provide a planning obligation.

19. It is clear from the supporting text to Policy CS21, that house prices in Elmbridge are significantly above regional and national averages and that affordability is an issue even for those on above average incomes. It also indicates that the threshold² for the provision of affordable housing in the previous development plan was not delivering affordable housing as a proportion of the overall number of homes built.
20. Paragraph 50 of the National Planning Policy Framework (the Framework) sets out that where local planning authorities have identified that affordable housing is needed, they should set policies for meeting this on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified. In this respect, the Council's approach set out in Policy CS21 appears to be generally consistent with paragraph 50 of the Framework.
21. However, paragraph 47 of the Framework says that to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed need (OAN) for market and affordable housing in the housing market area. Further, they should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their requirements.
22. The housing numbers in the CS (set out in Policy CS2) are based on a Strategic Housing Market Assessment that pre-dates the Framework and on figures derived from the now revoked Regional Spatial Strategy. Accordingly, I cannot ignore the fact that they do not reflect the housing needs identified in the latest Housing Market Assessment (2016)³ (SHMA), which identifies an OAN of 474 dwellings per year, which is more than double the CS target of 225 dwellings per year. Although this does not necessarily mean that the new OAN figures will be directly transposed into development plan policy, because they must be indicative of current need, the 2016 SHMA attracts significant weight. I therefore consider that Policy CS21 pulls against the Framework when taken as a whole and whilst the development plan remains the starting point for my decision, I give Policy CS21 limited weight.
23. In addition to this, the Written Ministerial Statement⁴ of 28 November 2014 (WMS) provides a material consideration that attracts considerable weight. The WMS sets out the government's intention to prevent affordable housing and tariff style contributions from placing a disproportionate burden on small-scale developers and the consequent adverse effects this has on overall housing supply. The WMS has been translated into updated Planning Practice Guidance (PPG), which states that contributions should not be sought for development on sites comprising 10-units or less.
24. Taking this into account, Policy CS21 is also inconsistent with the WMS and PPG affordable housing threshold. Consequently, national policy indicates that affordable housing should not be required below the stated threshold and there is a presumption that this policy should be followed.

² 15 dwellings before which a requirement for affordable housing was triggered in residential developments

³ Kingston Upon Thames and North East Surrey Authorities Strategic Housing Market Assessment (2016)

⁴ House of Commons: Written Ministerial Statement (HCWS50) 28 November 2014

25. The Council has produced a statement⁵ in response to the WMS, which seeks to justify its approach to the delivery of affordable housing and which updates the evidence underpinning Policy CS21. The statement highlights that median house prices in the Borough are some of the highest in the country - more than double the national average, and that they have seen a steep rise in recent years, particularly in comparison to neighbouring authority areas. Furthermore, as of June 2015, the lowest quartile incomes were 21.5 times lower than the lowest quartile house prices in the Borough. Overall, the available evidence indicates that Elmbridge is the 4th most difficult place in the country to get a step onto the property ladder. I have no reason to doubt any of this and accept that there is a specific and acute problem to address in Elmbridge with regard to the availability of affordable housing and its delivery over the plan period to 2026.
26. Nevertheless, in light of the empirical evidence before me and the limited weight carried by Policy CS21, I do not consider that the relevant provisions of the development plan outweigh the Framework requirement to boost significantly the supply of housing, which is given support by the objectives of the WMS and PPG. This justifies a decision being made other than in accordance with the development plan. Accordingly, a planning obligation in respect of affordable housing is not reasonable or necessary to make the development acceptable in planning terms.
27. I am aware that there have been a number of appeal decisions within Elmbridge Borough that have dealt with the issue of affordable housing provision. In particular, I note that there is some divergence of opinion set out therein. However, whilst these decisions are material considerations, I have made my decision in light of the particular circumstances of this case and on the basis of the evidence before me.

Conditions

28. I have had regard to the various conditions suggested by the Council, having also had regard to paragraph 206 of the Framework and Planning Practice Guidance. The conditions imposed are based on those suggested by the Council but with some variation in the interests of clarity and precision.
29. I have imposed a condition specifying the relevant drawings as this provides certainty. However, I note an apparent discrepancy on the drawing no 15353-E111 that relates to the north and west elevations of the existing dwelling. The drawing title is actually Existing North and East Elevations, which does not accord with the drawing. Although this matter is of no major consequence because it relates to the existing dwelling, which would be demolished, I have nonetheless reflected the discrepancy in the imposed condition.
30. A materials condition is necessary in order to ensure the appearance of the development is satisfactory. However, this does not need to be a pre-commencement condition. A condition is imposed to require the fitting of obscure glazed windows into plot 3 at first floor level in order to safeguard the privacy of existing and future occupiers. In the interests of highway safety, conditions are necessary to ensure adequate parking and turning space is

⁵ *Statement on the Written Ministerial Statement on the exemption of small sites from planning contributions and the consideration of house prices, affordability and the significance of small sites in Elmbridge in relation to the Government's position*

provided within the site and to require the submission and approval of a Construction Method Statement. Finally, I have imposed a condition relating to SuDS in the interests of proper drainage. This is a pre-commencement condition because of the need to first determine whether such a scheme could be implemented without affecting the layout of the development.

Conclusion

31. For the above reasons and having had regard to all other matters raised, the appeal succeeds.

Hayden Baugh-Jones

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location and Block Plan Drawing No 15353-E101 Revision D; Existing Ground Floor Plan Drawing No 15353-E102; Existing South and East Elevations Drawing No 15353-E110; Existing North and West Elevations Drawing No 15353-E111; Proposed Ground Floor Plans – Option 1 Drawing No 15353-P101 Revision A; Proposed First Floor Plans – Option 1 Drawing No 15353-P102 Revision A; Proposed Second Floor Plans – Option 1 Drawing No 15353-P103 Revision A; Proposed Roof Plan Drawing No 15353-P105 Revision A; Proposed South Elevation (Front) Drawing No 15353-P110 Revision A; Proposed East Elevation Drawing No 15353-P111 Revision B; Proposed North Elevation (Rear) Drawing No 15353-P112 Revision A; Proposed West Elevation Drawing No 15353-P113 Revision A; Proposed Street Elevation Drawing No 15353-P114 Revision A; Bin & bikes stores Drawing No 15353-P115 Revision A.
- 3) No development above slab floor level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.
- 4) The dwelling shown as Plot 3 on Drawing 15353-P102 Revision A shall not be occupied until the windows at first floor on its eastern elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 5) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 15353-E101 Revision D for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to prevent the deposit of dirt and materials on the highway

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No development shall take place until an assessment has been carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, it shall be completed in accordance with the submitted details shown as Option 1 within the Flood Risk Assessment and Surface Water Drainage Strategy by Nijhuis H2OK Ltd ref J-11031-01-HS dated 15 November 2016. The sustainable drainage system shall be managed and maintained thereafter in accordance with a management and maintenance plan that shall have first been submitted to and approved in writing by the local planning authority.