

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/16/3164143

Esher Tyre and Exhaust, The Broadway, Thames Ditton, Surrey KT7 0LU

- 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 Drift Bridge Garage Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2016/1963, dated 8 June 2016, was refused by notice dated 30 September 2016.
 - The development proposed is demolition of existing workshops and store and construction of two and a half storey building containing 6no 2 bedroom and 2no 1 bedroom flats with parking.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The appellant has submitted amended plans with the appeal that detail a revision to the second floor dormer windows on the building's western elevation. I consider the changes to be minor and am therefore satisfied that in taking the amended plans into account, this will not prejudice anyone's case in this appeal.

Main Issues

3. The main issues in this appeal are (i) the effects of the proposal on the Gainsborough Close street scene; and (ii) whether the financial contribution sought by the Council towards affordable housing is reasonable and necessary to make the proposal acceptable in planning terms.

Reasons

Character and appearance

4. The appeal site is currently occupied by a garage workshop along a street comprising a mix of commercial and residential uses. It lies immediately to the south of a row of residential dwellings and the overall design of the proposed building would be in general accordance with their character and appearance by way of its hipped roof form and the regimented use of two-storey gable bays addressing The Broadway. However, the building would also create a new frontage to Gainsborough Close which is a spacious residential cul-de-sac to the rear of buildings along this part of The Broadway.
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5. In views from within Gainsborough Close, the existing building is set behind a relatively high brick wall to which its rear elevation sits in close proximity. Although the building is higher than the wall, its flat roof nonetheless chimes with the horizontal emphasis the wall forms along the Close. Therefore, the existing building maintains a passive presence in the Gainsborough Close street scene. This is further assisted by the mature deciduous and evergreen trees that line the wide verges between the wall and the street. The wall and trees combine to enclose the eastern side of Gainsborough Close and the absence of any prominent buildings to the east is therefore a notable feature of the street scene.
6. The proposal would remove part of the existing wall and open up the site in views from within Gainsborough Close. However, only the gabled bay on the building's western elevation would project towards Gainsborough Close such that it would be close to the street. Nevertheless, whilst the other parts of the western elevation would be set back either side of this, opening up the site would result in the building having a significantly greater overall prominence in the Gainsborough Close street scene than the current building. Moreover, taking into account the comparatively smaller dwellings within Gainsborough Close, it would appear at odds with the existing scale of development in the street.
7. I note that the existing trees to the rear of the site in Gainsborough Close would be retained. They would therefore provide a degree of screening and the proposed hipped roof form would constrain, to some degree, the overall bulk of the building. Nevertheless, for the reasons already given, it would have a much more strident effect on the Gainsborough Close street scene by way of its overall appearance than the low-key brick wall and the garage workshop premises currently sat behind it. This would adversely affect the characteristic enclosure within Gainsborough Close and thus harm the street scene.
8. For the above reasons, the proposal would run counter to 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 Policy is inextricably linked to the relevant Design and Character Supplementary Planning Document Companion Guide (2012) (SPD); in this case, the one for Thames Ditton. However, it is unclear how the Council has applied the SPD to the determination of the application and thus, the reasons for refusal. From my reading of the document, it highlights a number of opportunities for each sub-area but does not set out any specific requirements in relation to the type of scheme before me. Accordingly, I do not give the SPD more than moderate weight.
9. Whilst Policy CS17 of the Elmbridge Core Strategy (2011) (CS) provides support for schemes that accord with its density requirements and maximise efficient use of urban land, it nonetheless requires them to integrate sensitively into the distinctive townscape. Accordingly, I also find that when the effects of the proposal are considered in their entirety, it conflicts with this policy. Furthermore, the proposal would not accord with the requirement for good design set out in the National Planning Policy Framework, (the Framework).

Affordable housing

10. 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.
11. 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 threshold¹ 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.
12. 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.
13. 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.
14. 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)² (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.
15. In addition to this, the Written Ministerial Statement³ 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

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

² Kingston Upon Thames and North East Surrey Authorities Strategic Housing Market Assessment (2016)

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

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.

16. 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.
17. The Council has produced a statement⁴ in response to the WMS, which seeks to justify its approach to the delivery of affordable housing and which updates the evidence underpinning the affordable housing requirements of 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.
18. 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 and the SPD. Accordingly, a planning obligation in respect of affordable housing is not reasonable or necessary to make the development acceptable in planning terms.
19. 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.

Other Matters

20. The appeal site is located a short distance from the boundary of the Weston Green Conservation Area (CA). Concern has been raised by the Weston Green CA Advisory Committee that the size of the proposed building would have an adverse effect on the setting of the CA. However, although the building would be taller than the existing commercial one, it would accord with the residential character of the line of dwellings to the north of the site along the western side of The Broadway. I do not consider that it would be of materially greater height than these dwellings and the overall effect would be an extension of the

⁴ *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*

residential area with a clearly defined 'end point', reinforced by the substantial car parking area to the south between the site and the CA boundary. For these reasons, I am satisfied that the proposal would not harm the character or appearance of the designated heritage asset.

21. It has also been put to me that the development would result in danger to pedestrians. However, no empirical evidence has been provided to support this claim and I note that the highway authority raised no objections to the scheme subject to appropriate conditions. I therefore give this argument very limited weight.

Conclusion

22. I have found that there would be no harm arising from the absence of a planning obligation to provide for affordable housing and that there would be no harm to designated heritage assets or highway safety. However, these are neutral factors that cannot outweigh the clear identified harm to the Gainsborough Close street scene.
23. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector