
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/16/3164197

16 Holroyd Road, Claygate, Esher KT10 0LG

- 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 Andrew Speak against the decision of Elmbridge Borough Council.
 - The application Ref 2016/1260, dated 17 April 2016, was refused by notice dated 9 August 2016.
 - The development proposed is part single/part two storey side and rear extension following demolition of existing garage to create 3 flats.
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Decision

1. The appeal is allowed and planning permission is granted for part single/part two storey side and rear extension following demolition of existing garage to create 3 flats at 16 Holroyd Road, Claygate, Esher KT10 0LG in accordance with the terms of the application, Ref 2016/1260, dated 17 April 2016, subject to the following conditions set out in the Schedule to this decision.

Procedural Matter

2. The Council has confirmed that its decision notice includes an incorrect reference to Policy CS7 of the Elmbridge Core Strategy (2011) (the CS). I am satisfied that this policy has no relevance to the appeal scheme and that the applicable Policy is CS11. I have reflected this in my decision.

Main Issues

3. The main issues in this appeal are (i) the effects of the proposal on the character and appearance of the area having particular regard to the Holroyd Road street scene; (ii) whether it would provide satisfactory living conditions for future occupiers with regard to indoor space; outdoor amenity space and outlook; and (iii) whether the financial contribution sought by the Council towards affordable housing is reasonable and necessary to make the proposal acceptable in planning terms.

Reasons

Street scene

4. The appeal property comprises a detached dwelling within a line of similar properties on the south eastern side of Holroyd Road, which form part of an established residential estate. Many properties along Holroyd Road have paved
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- over frontages and whilst this is unlikely to be reflective of the original development layout, it has become a defining characteristic of the street scene.
5. The proposal would provide hardstanding for the parking of three cars and for the storage of six domestic waste bins. The Council accepts that the resulting appearance of the hardstanding would not be at odds with the street scene, but considers the intensity of use associated with three flats would indicate an overall harmful density of development.
 6. However, many of the nearby properties have parking for at least the same number of vehicles as proposed in the appeal scheme. Given that they provide family accommodation, the comings and goings from these other dwellings would not be dissimilar to those that could reasonably be expected from three modest flats. Thus, in my view there would be no materially harmful effects from the use of the proposed development.
 7. I acknowledge that the number of bins on the frontage would be greater than at the neighbouring properties. However, the placing of bins on property frontages is a notable feature of the street scene along with other domestic accoutrements and I am not convinced that the effects arising as a result of three further bins to serve the flats would be so harmful as to be unacceptable.
 8. For the above reasons and given that the overall proportions of the existing dwelling would not materially change, I do not consider that the effects would represent a noticeable change to the density of development on the estate or equate to the creation of a cramped form of development.
 9. Accordingly, the appeal scheme would not harm the street scene or the character or appearance of the surrounding area. Thus, it would not conflict with CS Policy CS11 that provides general support for residential development in Claygate but requires it to be well designed and integrate with and enhance local character. Neither would it run counter to CS Policy CS17 that requires development to respect local character and development density. Further, the proposal would accord with Policy DM2 of the Elmbridge Development Management Plan (2015) (the DMP), which, amongst other things seeks to ensure development achieves high quality design. These policies are consistent with the requirement for good design set out in the National Planning Policy Framework (the Framework).

Living conditions

10. The Council argues that the bedroom sizes within the proposed one bedroom flats would be sufficient to accommodate double beds thereby providing the potential for two person accommodation and that consequently the overall internal space would be inadequate to accommodate this level of occupancy. DMP Policy DM10 sets out that the minimum space standards in the policy's accompanying table will apply unless superseded by any relevant national standards and in which case, the national standards will apply.
11. I recognise that the bedroom sizes on their own would be approaching those required for 2 bed spaces as set out in the nationally described space standards. However, I have no compelling evidence that leads me to believe that the one bedroom units would provide anything other than one-person accommodation. Accordingly, in the absence of any substantive evidence to the

contrary, I consider the proposal would be in accordance with expected living standards set out in DMP Policy DM10.

12. I turn now to the proposed external amenity space. The existing garden would be subdivided to provide private outdoor areas for the two ground floor flats. The flat above, would not have any allocated outdoor space. However, there is nothing within the available evidence to indicate that flats must be provided with gardens. Nevertheless, those provided would be of sufficient size for sitting out and drying washing so would meet the day-to-day needs of the occupants and would therefore be acceptable.
13. In terms of the first floor flat, I noted at my site visit that there is a good amount of publicly accessible space in very close proximity. In my view, this would be sufficient to provide adequate recreational space for the first floor flat's occupants and also supplement that of the occupiers of the two other flats.
14. In respect of matters of outlook, other nearby dwellings have what appear to be main windows overlooking their frontages. The relationship of the bedroom windows of the ground floor flats to parked vehicles and bins placed on the frontage would not be materially different in my view, to that of nearby occupiers from their front facing ground floor rooms. Moreover, the amount of time spent in the bedrooms would be likely to be less than that spent in the rear facing main living areas so any effects would be minimal and acceptable.
15. I recognise that the two ground floor flats would have their bedroom windows overlooking the front of the property and that there could be some disturbance from vehicle headlights when parking on the forecourt. However, it would be unlikely in my view for occupants to frequently arrive home without showing some consideration to other occupiers. In any case, I am not persuaded that such issues would be of such magnitude to weigh heavily against the proposal.
16. For the above reasons, the proposal would provide satisfactory living conditions for its future occupiers in accordance with DMP Policy DM2 that also seeks to protect the amenity of potential occupiers including an appropriate outlook. It would also accord with the Council's Design and Character Supplementary Planning Document Companion Guide: Claygate (2012).

Affordable housing

17. 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.
18. 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.

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

19. 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 consistent with paragraph 50 of the Framework.
20. 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.
21. 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.
22. CS Policy CS11 encourages the provision of small and affordable family units where a local need is identified and Policy CS19 seeks to secure a range of housing types and sizes across the borough. The supporting text to this policy states a need for 90% of all new housing development to deliver 1, 2 and 3 bedroom dwellings in equal proportions in the private market sector. Taking into account the provisions of Policies CS11 and CS19, there is, in my view clear development plan support for the type of housing subject to this appeal. The available evidence indicates that the latest SHMA also identifies an OAN for 2678 new 1 bed dwellings by 2035.
23. 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 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 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 Kingston Upon Thames and North East Surrey Authorities Strategic Housing Market Assessment (2016)

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

25. 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 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.
26. The appellant argues that of the £6.89m affordable housing contributions total, only £2.9m has been spent on delivering affordable housing. The available evidence also identifies that there has been a reduction in the numbers of 1 and 2 bed market flats since 2010/2011 and that there is an absence of any 1 bed flats for sale in Claygate.
27. The 1 bed flats would each be valued at £160,000 and £240,000 for the 2 bed unit. The appellant's evidence suggests that the current average value of flats in Claygate is around £467,000. Therefore, the proposal would be providing housing at values below market levels and meet the definition of affordable housing in Annex 2 of the Framework. Given the pressures within the Borough for such accommodation, I give this very substantial weight.
28. To conclude on this main issue, the proposal thereby conflicts with Policy CS21 but accords with the development plan objectives for the provision of the types of housing set out in CS Policies CS11, CS19 along with the Council's Developer Contributions Supplementary Planning Document (2012) which reflects the Framework definition of affordable housing. In combination with the WMS and PPG and the limited weight afforded to Policy CS21, this demonstrably tips the balance in favour of the proposal. Accordingly, a planning obligation in respect of affordable housing is not reasonable or necessary to make the development acceptable in planning terms.
29. Both parties have provided me with a number of other appeal decisions and extracts of appeal decisions that they consider support their respective cases. I have taken all of these into account but the particular circumstances of this case are such that those put to me by the Council do not alter my conclusion in respect of affordable housing for the reasons I have already set out.

Conditions

30. 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.
31. I have imposed a condition specifying the relevant drawings as this provides certainty. A condition relating to matching materials is unnecessary as they are adequately described on the approved drawings. In the interests of encouraging sustainable modes of transport, I have imposed a condition requiring the provision of a secure area for cycle parking. Conditions are

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*

necessary relating to parking in the interests of highway safety. A condition is imposed to ensure that the storage of bins does not adversely affect the amenities of neighbours or the character and appearance of the area.

Conclusion

32. 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: Existing, Approved & proposed Site Plan & block Plan & OS Drawing No AS09/03 Rev A; Existing, Approved & Proposed Plans Drawing No AS09/01 Rev A; Existing, Approved & Proposed Elevations Drawing No AS09/02 Rev A.
- 3) No dwelling shall be occupied until space has been laid out within the site for 3 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 4) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. AS09/03 Rev A for 3 cars to be parked and that space shall thereafter be kept available at all times for those purposes.
- 5) Notwithstanding the details shown on drawing no. AS09/03 Rev A, no dwelling shall be occupied until details for the storage of bins have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before any of the dwellings are occupied and shall thereafter be retained for those purposes.