The Planning Inspectorate

Appeal Decision

Site visit made on 15 May 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: 5th June 2017

Appeal Ref: APP/K3605/W/16/3166135
12 Littleworth Common Road, Esher, Surrey KT10 9UE

- 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 Aspire Homes Ltd against the decision of Elmbridge Borough Council.
- The application Ref 2016/1677, dated 22 May 2016, was refused by notice dated 8 November 2016.
- The development proposed is 4 detached two storey houses with rooms in the roofspace, dormer windows, detached garage to plot 1, integral garages to plots 2, 3 and 4 and entrance gates and piers following demolition of existing house and detached garage.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development given in the heading above is taken from the appeal form as it provides the most comprehensive and accurate description of the proposal.

Main Issues

3. The main issues in this appeal are (i) the effect of the proposal on the character and appearance of the area; and (ii) whether it would provide satisfactory living conditions for future occupiers with regard to outdoor amenity space.

Reasons

Character and appearance

4. The appeal site lies within a residential area characterised by substantial dwellings set within extensive, well vegetated plots. Taking this into account with the prominent edge of the expansive woodland immediately to the east, the area has a spacious, verdant and semi-rural character. Although existing dwellings display individual characteristics, they nonetheless line up in relatively regimented fashion along the western side of Littleworth Common Road up to the point that it turns sharply to the east and where dwellings become more loosely arranged.

5. The layout of the proposed dwellings would broadly accord with the more regular line of dwellings to the north-west but would extend to the south into

the area of much less regimented built form. Moreover, in contrast to the predominantly individually distinct properties in Littleworth Common Road, the proposed dwellings would be of broadly similar appearance to one another by way of their materials palette, overall form, matching heights and common gable and dormer features. I accept that there would be some variation within this but nonetheless consider that overall they would be of generally uniform character. Thus, they would be at odds with the individual characteristics of other dwellings in Littleworth Common Road.

6. Furthermore, the spread of the dwellings across the site and the ratio of built form to the respective plots would be at odds with the less developed and much larger surrounding plot sizes that contribute significantly to the area's spaciousness. Accordingly, the proposal would be out of kilter with the development pattern.

7. I recognise that the surrounding mature boundary trees would restrict views into the site and the change that would be brought about by the development would not be readily perceptible. However, merely because a development is hidden does not mean that it is acceptable when taking account of the physical characteristics of an area that contribute to its distinctiveness.

8. Accordingly, I do not consider that the proposal would satisfactorily reflect the character of its surroundings. Thus, it would run counter to Policy CS9 of the Elmbridge Core Strategy (2011) (the CS), which expects development to enhance local character. For the same reasons, it would also conflict with CS Policy CS17 that requires development to respect local character and development density.

9. Further, the proposal would conflict with Policy DM2 of the Elmbridge Development Management Plan (2015) (the DMP), which, amongst other things seeks to ensure development respects local character and has regard to the relevant Design and character supplementary Planning Document (SPD). These polices are consistent with the requirement for good design set out in the Framework. Whilst I recognise the government's objective to boost significantly the supply of housing, it is not the intention that this should come at the expense of local distinctiveness.

10. I have had regard to the Esher section of Council's Design and Character SPD Companion Guide (2012). The document hangs off DMP Policy DM2. Although the proposed rear gardens would significantly exceed the SPD's minimum requirements, the SPD makes it clear that proposed garden sizes should be informed by the character of the area. For the reasons already given, I do not consider the proposed plot sizes would accord with those surrounding the site. The proposal also therefore conflicts with the SPD.

Living conditions of future occupiers

11. Notwithstanding my conclusions on the first main issue, the rear garden sizes would be of adequate size to provide for sitting out, drying washing and young children's play. Accordingly they would satisfactorily accommodate the day-to-day needs of the dwellings' occupants. The proposal would therefore accord with the expected living standards set out in DMP Policy DM10.

Other Matters

Living conditions of neighbouring occupiers with regard to light

12. It has been put to me that the proposal would result in a reduction in the amount of light reaching the kitchen and one of the main bedrooms at no 10 Littleworth Common Road. The kitchen is of mainly glazed construction and covers a substantial area, forming part of a wider kitchen/dining space. It extends to the south-east of the main part of the dwelling and is close to the boundary with the appeal site.

13. I note the appellant's argument that the evergreen trees along the boundary between no 10 and proposed plot 1 already have a significant effect on the amount of light reaching next door. From my observations on site, the trees are growing sufficiently close together to form a wall of vegetation which has a marked effect on the amount of ambient light reaching No 10's kitchen. The bedroom sits above the kitchen/dining area and has a modestly sized window facing the appeal site but is set further back from the boundary.

14. The dwelling forming plot 1 would be stepped back from next door and would not be sited immediately next to the boundary. The northern flank wall would not extend significantly above the height of the boundary trees and its roof would slope away. Consequently, there would not in my view, be a material reduction in the amount of light reaching no 10's kitchen or the identified bedroom. Thus, I do not find that the proposal would run counter to the development plan in this particular regard.

Planning obligation

15. CS Policy CS21 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 Policy CS21. The appellant has submitted an executed planning obligation that makes provision for an off-site financial contribution towards affordable housing but has challenged the need for it in light of updated evidence.

16. 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 threshold[1] 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.

17. Paragraph 50 of the National Planning Policy Framework (the Framework) says 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

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

justified. In this respect, the Council's approach set out in Policy CS21 appears to be generally consistent with paragraph 50 of the Framework.

18. 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.

19. 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.

20. In addition to this, the Written Ministerial Statement[3] 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.

21. 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. For this reason and those already given, I do not consider that a planning obligation relating to the provision of affordable housing is reasonable or necessary to make the development acceptable in planning terms.

22. Notwithstanding all of this, the benefits associated with the provision of an affordable housing contribution would not in my view, be sufficient to outweigh the clear identified harm to the area's character and appearance in any case.

Conclusion

23. For the above reasons and having had regard to all other matters raised, including those by interested parties, the appeal does not succeed.

Hayden Baugh-Jones

Inspector

[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