

## Appeal Decision

Site visit made on 19 June 2017

**by Robert Parker BSc (Hons) Dip TP MRTPI**

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

**Decision date: 12 July 2017**

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**Appeal Ref: APP/K3605/W/17/3167882**

**Land to the side of 50 Primrose Road, Primrose Road, Hersham, Walton-on-Thames KT12 5JD**

- 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 David Murphy against the decision of Elmbridge Borough Council.
  - The application Ref 2016/3374, dated 13 October 2016, was refused by notice dated 23 December 2016.
  - The development proposed is the construction of a detached single family dwelling house with garage (self build).
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are:
  - a) the effect of the proposal on the character and appearance of the area;
  - b) whether the development would provide acceptable living conditions for future occupiers, with regard to privacy and the provision of amenity space;
  - c) whether the scheme would result in an increase in on-street parking stress that would be detrimental to the amenities of local residents; and
  - d) whether a financial contribution is necessary towards affordable housing.

### Reasons

#### *Character and appearance*

3. The east side of Primrose Road has a strongly defined building line, with the majority of houses abutting the back edge of the pavement. Some of the newer properties immediately to the north of the appeal site are set back behind a narrow margin. Although the proposed dwelling would have a similar relationship to the highway, its plot would be significantly shallower than the others on this side of the street. Whereas other properties enjoy rear garden depths in the order of 11 m, the new dwelling would be less than 7 m from the rear boundary fence. This would contribute to a cramped and incongruous appearance.
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4. By failing to have regard to the prevailing pattern of built development and separation distances to plot boundaries the proposal would have an unacceptable impact on the character and appearance of the area. There would be conflict with Policy DM2 of the Elmbridge Local Plan Development Management Plan (2015) (DMP) and Policy CS17 of the Elmbridge Core Strategy (2011) (ECS). These policies require high quality design which responds to local character.

*Living conditions (future occupiers)*

5. It is put to me that the garden to the proposed development would be equivalent in size to others in the adjoining residential scheme. However, where comparable gardens exist the dwelling itself is generally smaller. Although the appellant draws comparisons with 13A and 13B Queens Road, these properties have deeper rear gardens and access to a front garden. In my judgement, the garden shown on the plans would be disproportionately small for the 4-bedroom dwelling being proposed. Its limited size would make it inadequate to meet the everyday needs of a typical family household.
6. According to the officer report there would be a distance of approximately 14.6 m between the front elevation of the proposed house and existing residential properties on the opposite side of Primrose Road. The Council is concerned that this would give rise to unacceptable levels of overlooking. It cites a minimum recommended separation distance of 22 m. However, I note from the Elmbridge Design and Character Supplementary Planning Document (2012) (SPD) that this figure relates to rear elevations facing each other.
7. The relationship between the proposed dwelling and the houses opposite would be directly comparable to that which already exists between most other residential properties along the length of Primrose Road. Given this context I can find no reason for insisting upon greater separation. The SPD acknowledges that in more compact contexts, in the centre of towns, especially in infill situations, it may not be possible or appropriate to achieve the conventional distances. The emphasis within the Council's own guidance is upon 'reasonable privacy' and in my opinion this would be achieved.
8. Whilst additional concerns have been raised regarding the proximity of ground floor habitable rooms to the highway, such an arrangement is characteristic of this side of the street. To resist the appeal scheme on privacy grounds given this context would be unreasonable.
9. I therefore find that, whilst future occupiers would enjoy acceptable levels of privacy, the proposal would conflict with the requirement of Policy DM10 of the DMP that new residential accommodation should include gardens or outdoor space commensurate with the type and location of housing proposed. It would also run contrary to advice within the SPD which states that where gardens are included within residential development, they should be of an appropriate size to provide amenity space for occupiers.

*On-street parking*

10. The appeal site contains three parking spaces which were permitted as part of the adjoining housing scheme. At the time of my visit the spaces were fenced off for reasons unknown. However, the appellant does not dispute that they were intended for general use in connection with the neighbouring development.

11. The proposal would retain two of the spaces and provide a single driveway and garage alongside the new dwelling. The garage would not meet the minimum recommended dimensions set out within the SPD and as a result it is unlikely that it would be used for parking. In all probability, future residents would use it for the storage of items which might otherwise be stored in a shed was the garden to be larger.
12. I acknowledge that there would be no net loss of parking spaces within the site. Nevertheless, the proposal would remove at least one kerbside space in front of the new dwelling and it would increase the competition for casual on-street parking which local residents have indicated is already under pressure. No parking surveys have been undertaken by the appellant and therefore I cannot be certain that the proposal would not increase on-street parking stress to the detriment of those living locally.
13. It is contended that the adjoining housing scheme would require fewer spaces if approved under today's parking standards. However, this is not sufficient to persuade me that the appeal scheme would not adversely affect local residents. Furthermore, that the Highway Authority has not objected to the scheme is not reason to find it acceptable. On the evidence presented, compliance with Policy DM7 of the DMP has not been satisfactorily demonstrated.

#### *Affordable housing*

14. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Policy CS21 of the ECS requires a financial contribution towards affordable housing on sites of 1–4 dwellings. The policy accords with the National Planning Policy Framework in terms of its objective to address the need for affordable homes.
15. The appellant refers me to the judgement of the Court of Appeal in the case of Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016]. This had the effect of reinstating the Written Ministerial Statement (WMS) of 28 November 2014 as a material consideration as it related to contributions for affordable housing and tariff style planning obligations for small scale and self-build development.
16. Following the court judgement new and updated paragraphs were added to the Planning Practice Guidance (PPG). These explain that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. The WMS and PPG post-date publication of the ECS and they are the most recently expressed statement of Government policy. I therefore attach them significant weight.
17. The Government's clear expectation is that affordable housing contributions should not be sought in cases such as this. However, in this instance the Council has produced detailed evidence on the acute affordability issues being faced within the Elmbridge housing market and the importance of small sites to delivering new homes in the Borough. It has also demonstrated its willingness to reduce or waive contribution requirements where justified by viability assessments for individual sites.

18. In the absence of any substantive evidence to demonstrate that an affordable housing contribution would make the appeal scheme unviable, and having regard to the specific local circumstances set out within the Council's evidence, I consider that Government policy is not sufficient in this particular case to outweigh the development plan. A financial contribution in line with Policy CS21 of the ECS and the Elmbridge Local Plan Developer Contributions Supplementary Planning Document (2012) is therefore appropriate and compliant with the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The appellant has not presented a planning obligation to secure the necessary monies and therefore this is an additional reason to dismiss the appeal.

### **Other matters**

19. I have noted the concerns regarding overlooking of Nos 4-6 Primrose Road. However, it follows from my findings above, that there would be no material loss of privacy for the occupants of these properties. I have given consideration to all other matters raised by residents, including the concerns regarding loss of green space, but they do not alter my conclusions on the main issues.
20. I have also taken account of the appellant's argument that the land is unsightly. However, the current condition of the land is largely a result of lack of maintenance. It does not justify the harm that would arise from granting planning permission. Neither does the location close to the village centre convince me that the scheme is acceptable.

### **Conclusion**

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Robert Parker*

INSPECTOR