
Appeal Decision

Site visit made on 19 July 2017

by Rory MacLeod BA MRTPI

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

Decision date: 1st September 2017

Appeal Ref: APP/K3605/W/17/3170220

67 St Mary's Road, Long Ditton, Surbiton KT6 5HB

- 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 White Oak Homes Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2016/2066, dated 20 June 2016, was refused by notice dated 1 December 2016.
 - The development proposed is erection of a bungalow and new access road following partial demolition of the existing house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:-

(1) The effect of the development on the character and appearance of the surrounding area, and

(2) Whether a financial contribution is necessary towards the provision of affordable housing having regard to local and national planning policies.

Reasons

Character and appearance

3. St. Mary's Road is characterised by large detached houses of varying design set within substantial gardens. Although the houses are set back similar distances from the road, a building line is not readily apparent in views along the road because of the abundance of hedges, trees and shrubs in the front gardens and due to the curvature of the road. Trees can also be glimpsed between and behind the houses, all combining to form a verdant character to the area.
4. The appeal site has a particularly large rear garden that wraps behind 65 St. Mary's Road and includes several trees. To the east of the site these merge with vegetation in neighbouring gardens to form a woodland area. On higher ground to the rear of the site are a row of detached houses in Cumbrae Gardens which are generally smaller and more closely sited than those in St. Mary's Road, but most have large gardens and several trees and shrubs that all contribute to the verdant character of the area. The rear gardens between

these roads are overlooked from many surrounding dwellings and are generally devoid of built structures.

5. It is proposed to build a detached single storey dwelling centrally sited within the back garden beyond a retained garden for 67 St. Mary's Road. Access would be gained via a new driveway adjacent to the boundary with 69 St. Mary's Road involving the demolition of a garage and alterations to the house. The access arrangements would be similar to those found acceptable on a previous appeal¹ at the site for two detached chalet houses, but that appeal was nonetheless dismissed in relation to the effect of the development then proposed on the character and appearance of the area.
6. The single dwelling now proposed would by comparison have a low profile with mono-pitch roofs not exceeding 4m in height over the dwelling and adjacent car port. Whilst it would not be visible in the street scene of St. Mary's Road, it would nonetheless be seen as a discordant element when viewed from the rear windows of dwellings in the surrounding area and a particularly close and conspicuous feature from the retained house at 67 St. Mary's Road and from the rear of 3 and 4 Cumbrae Gardens. Its unusual design and extensive shallow pitched roofs would contrast with the appearance of the two storey houses with steeper pitched roofs in the surrounding area. The footprint of the proposed bungalow would be substantial, greater than that of the houses in Cumbrae Gardens. The development would form a sizeable intrusion into an otherwise largely undeveloped garden setting.
7. There would be gardens of satisfactory size for the new and retained dwellings and the density of the scheme would be low. The direct impact on existing trees would be limited mainly to two centrally located oak trees, but there would be scope for supplementary planting. Nonetheless the presence and scale of the proposal in this setting would have a detrimental impact on the verdant character of the area as a whole.
8. Policy DM10 of the Elmbridge Local Plan Development Management Plan 2015 (DMP) specifies various requirements in relation to housing including the need for housing on garden land to respect the character of the area. The need for development to be based on an understanding of local character is reinforced by Policy DM2 of the DMP and by Policies CS8 and CS17 of the Elmbridge Core Strategy 2011 (ECS). These also point to the relevant character assessment companion guide to the Elmbridge Design and Character Supplementary Planning Document 2012 (SPD). The site is within the Sub Character Area DHW05: St Mary's Road, Long Ditton which identifies the houses to be of high architectural value with articulation and architectural detailing set in generous plots in landscaped gardens giving a very green character to the road. My findings on the first main issue are that the proposal would significantly harm the character and appearance of the site and surrounding area and would be in conflict with these planning policies.
9. I acknowledge that the appellant has sought to resolve outstanding planning issues through pre-application discussions. The appellant has drawn my attention to several other backland developments in St. Mary's Road. These are clustered at the other end of St Mary's Road, far from the appeal site where the character of the road differs in some respects. To the rear of 1 St. Mary's Road are two new houses adjacent to an elevated railway line. At my site visit I

¹ APP/K3605/W/15/3128695

observed other more established backland houses some with a tandem access. Those seen were generally large houses in well screened plots and not out of keeping with the frontage houses in this part of the road. Their presence does not lead me to a different conclusion at the appeal site. Moreover, I have had regard to the particular circumstances at the site.

10. The appellant has also drawn my attention to various provisions within the National Planning Policy Framework (The Framework) that promote a pro-growth agenda for the planning system. However, I have found conflict with the development plan policies cited in the decision, examined in paragraph 8 above, and therefore with the provisions of the Framework as a whole.

Whether a contribution towards affordable housing is necessary

11. The Written Ministerial Statement (WMS) of 28 November 2014 states that "Due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought." The PPG has been updated to reflect this. The WMS and PPG are material considerations to which considerable weight should be attached as the most up to date statements of national planning policy on this issue.
12. However, Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that planning applications be determined in accordance with the statutory development plan unless material considerations indicate otherwise. Policy CS21 of the Elmbridge Core Strategy 2011 states that the Council will seek the provision of affordable housing from new residential development where viable to meet a recognised need. The Elmbridge Developer Contributions Supplementary Planning Document (2012) sets out the Council's approach to securing such funding through planning obligations.
13. There is therefore conflict between the requirements of Policy CS21 in seeking affordable housing contributions on small sites and the WMS and PPG that state such contributions should not be sought below the specified thresholds. The weight to be attached to both sides of this conflict is a matter for the decision taker. The Council's approach to resolve this is set out in a statement² dated February 2017. They consider on a case by case basis whether local circumstances with regard to affordable housing and the nature of development sites in the Borough are sufficient to warrant application of policy CS21 or whether greater weight should be attached to the WMS.
14. The February 2017 statement points to the substantial need for affordable housing in the Borough and the importance of delivery through small sites towards this need. It also provides analysis of several recent appeal decisions within Elmbridge on the issue of affordable housing provision. There is clearly a divergence of opinion expressed within these decisions, and in some cases the issue of affordable housing contributions is examined only briefly. I have had regard to all decisions referred to but have made my decision based firmly on the particular circumstances of this appeal and in relation to the evidence before me.

² Statement on the Written Ministerial Statement on the exemption of small sites from planning contributions and the Vacant Building Credit. Update – February 2017

15. Paragraph 47 of the Framework requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area. The Council's February 2017 statement provides evidence to support the continued relevance of Policy CS21 in relation to the supply of affordable housing. When taken together with Paragraph 50 of the Framework, which requires local planning authorities to plan for and deliver a wide choice of high quality homes including affordable housing where the need is identified, I find Policy CS21 to be consistent with the requirements of the Framework.
16. Paragraph 50 of the Framework also stipulates that where the need for affordable housing has been identified that off-site provision, or a financial contribution of broadly equivalent value, should be robustly justified and the agreed approach to contribute to the objective of creating mixed and balanced communities.
17. The Council's February 2017 statement confirms the use of viability assessments on all developments where applicants consider a contribution to make the development unviable, enabling contributions to be reduced or waived as appropriate. It shows that since PPG was amended on 19 May 2016 and up to 25 November 2016, 25 out of a total of 36 applications were granted for developments on sites of between 1 and 4 units; in 24 of these schemes, the applicant has signed a unilateral undertaking agreeing to pay either the total amount of affordable housing required or a reduced amount following appraisal of a viability assessment. This affirms the importance of small sites, such as the appeal site, in bringing forward contributions towards affordable housing provision and that in general such contributions have not significantly impacted upon viability.
18. The appellant has drawn my attention to the WMS. This is up to date and intended to ensure that affordable housing contributions from small sites do not become a burden in relation to overall housing supply. But Policy CS21 still has to be weighed in the balance against other material considerations, notwithstanding the fact that the Core Strategy predates the Framework, WMS and updates to PPG. The Council's February 2017 statement provides empirical and up to date evidence to support the continued relevance and expediency of the requirements of Policy CS21 and as such also attracts substantial weight.
19. The appellant states that a financial contribution towards affordable housing would make the scheme unviable. On sites of 1-4 dwellings, the Council seeks a financial contribution equivalent to the cost of 20% of the gross number of dwellings. I have not been supplied with any information in relation to the effect of such a payment on the viability of the proposal or if the Council would vary the requirement in this instance in the light of that information. However, the general evidence from the Council's February 2017 statement is that such payments have not been disproportionate or burdensome so as to affect the viability of recent schemes for housing on sites of 1-4 dwellings.
20. The WMS and PPG are clearly material considerations to which considerable weight should be attached in taking decisions, and in many circumstance would outweigh the provisions of a development plan. However, having regard to the evidence before me that affirms the acute shortage of affordable housing in Elmbridge and the significant contribution that small sites make towards its

provision, I conclude in this instance that the requirements of Policy CS21 of the development plan outweigh the objectives of the WMS and PPG.

21. Accordingly, and in the absence of a viability assessment to the contrary, an obligation in respect of affordable housing is necessary. I am satisfied that such an obligation would satisfy the tests set for an obligation in paragraph 204 of the Framework. No unilateral undertaking has been submitted to enable such a payment to be made. The appeal therefore fails on this issue.

Conclusion

22. I conclude that the proposal would have a significant adverse effect on the character and appearance of the area surrounding the appeal site and that in the circumstances of the case, having regard to local and national planning policy considerations, that a financial contribution is necessary towards the provision of affordable housing. As such, the appeal should be dismissed.

Rory MacLeod

INSPECTOR