



Appeal Decision

Site visit made on 8 July 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2019

Appeal Ref: APP/K3605/W/19/3223030

41 Onslow Road, Hersham, Walton-On-Thames KT12 5BA

- 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 Fanous against the decision of Elmbridge Borough Council.
 - The application Ref 2018/2804, dated 13 September 2018, was refused by notice dated 27 November 2018.
 - The development proposed is demolition of existing house and erection of two dwellings with attached triple garages.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i. the effect of the development on the character and appearance of the area, and on the amenity value of important trees;
 - ii. whether the development makes an efficient use of the site;
 - iii. whether an affordable housing contribution is necessary and whether it can be adequately secured.

Reasons

3. The site is located in a private residential estate consisting of substantial detached properties. The site itself consists of a large property set within good sized mature gardens, which according to the Council amounts to 0.275ha, on a corner plot. The proposal relates to the demolition of the dwelling and the erection of two 6-bedroom homes with attached triple garages. A new vehicular access would be created.

Character and appearance

4. The area is characterised by detached dwellings set within reasonably spacious plots. The urban grain is not uniform, with no well-established front building line. There are however several distinct styles of properties, in terms of design, within the estate.
5. The site itself is a wider and deeper plot than the majority of those in the immediate area and the Council raises no objection to the principle of

demolishing the existing property and redeveloping the site. It is situated in a location where, owing to the lane to the side, there is somewhat of a backland character with properties situated to the rear of the site.

6. The orientation of the proposed properties and consequent site layout would result in the rear of the properties facing Onslow Road. They would however be sited significantly further into their plots than other properties, being some 34m from the road. Coupled with the design of the rear elevations, which are well articulated, and the mature boundary treatments of the site, this siting would not appear conspicuous within the street-scene and would respond to the positive features of the site and its individual location, given its immediate character. The scheme would therefore not be harmful to the established built form of the surrounding area.
7. The properties would also be accessed by the lane to the side of the site. Vehicular accesses, such as that serving No 33, are not an uncommon feature along this short stretch of road and so would not be out of keeping or change its rural nature, despite the loss of some trees, which I shall address below.
8. The scale, massing and design of the proposed properties would be similar to others within the estate, albeit many of these are individual bespoke properties. The scheme is for a handed pair of dwellings, each using the same external materials, design features and proportions. This would therefore result in the same appearance and a degree of uniformity. Whilst I appreciate that differing designs would perhaps be more desirable and provide more visual interest, the design in itself is appropriate to the character of the area and I am not persuaded, in light of the size of the site, that the uniformity of a handed pair of dwellings would appear incongruous to the surrounding area.
9. I could see during my site visit that a number of trees on the site had been felled. I have not been made aware of any Tree Preservation Orders at the site, and therefore there is no restriction on their removal and no requirement for them to be replaced. The proposed access would however necessitate the removal of further trees, albeit these appeared to be leaning or of poor form which in my view limits their public amenity value. I also have little evidence to convince me there would be juxtaposition issues in respect of the proximity of the dwellings to further trees on the boundaries. There is however a significant oak tree at the rear of the site and the proposed driveways would be placed through the root protection area of this, and other trees, along the rear boundary. Whilst an arboricultural impact assessment, tree protection details or arboricultural method statement have not been provided, I am satisfied that important trees could be afforded adequate levels of protection prior, during and post development, subject to the imposition of suitably worded planning conditions, such as those suggested by the Council, had I been allowing the appeal.
10. I therefore conclude the development would not be harmful to the character and appearance of the area or the amenity value of important trees and so would accord with Policy CS17 of the Elmbridge Borough Council Local Development Framework Core Strategy Development Plan Document, 2011 (the CS), and Policies DM2 and DM6 of the Elmbridge Local Plan Development Management Plan, 2015. These policies, amongst other things, require development proposals to: respond to the positive features of individual locations; preserve or enhance the character of the area; and, not result in the

loss of, or damage to, trees and hedgerows that are, or are capable of, making a significant contribution to the character or amenity of the area. For the same reasons, the development would comply with the objectives of the Elmbridge Borough Council Design and Character Supplementary Planning Document, 2012,

Efficient use of the site

11. The Council cannot demonstrate a 5-year housing land supply and identifies a particular need for 1, 2 and 3 bedroom homes to meet its local housing requirements. There is however not an outright restriction placed on constructing larger properties, as evidenced by the Council's figures that in the last monitoring year 46.9% of new homes in the Borough had 4 or more bedrooms.
12. Whilst I sympathise with the position of the Council in looking to optimise land to deliver homes to meet its Strategic Housing Market Assessment, paragraph 122 of the Framework recognises the desirability of maintaining an area's prevailing character and setting, including that of residential gardens. This is a windfall site, and in particular the context of the site is one with a character consisting of substantial detached dwellings. In light of this, the construction of two dwellings would in my view make an optimal use of the site, despite the relatively low density of the development and the Council's absence of a 5-year housing land supply. I also note the Council's published Development Management Note¹ places an emphasis on sites of 0.3 ha or more when it comes to promoting housing types and sizes.
13. I note the Council advocates the provision of a higher number of smaller units in redeveloping the site. I however do not have specific details for alternative schemes before me and so only afford the contention that this could be achieved, while maintaining the character of the area, very limited weight.
14. I also have little evidence to persuade me how the construction of two dwellings would fail to create inclusive and sustainable communities or result in the over concentration of any one type of dwelling that would have the potential to adversely affect community cohesion.
15. I therefore conclude the development would make an efficient use of the site and so would accord with Policy CS19 of the CS. This policy, amongst other things, seeks to secure a range of housing across the Borough, resist over concentration and create inclusive and sustainable communities. For the same reasons it would accord with the making effective use of land objectives of the Framework.

Affordable housing contribution

16. Policy CS21 of the CS outlines the Council's aim to provide at least 1,150 affordable homes between 2011 and 2026, by requiring proposals where there would be a net increase in dwellings to contribute to the provision of affordable housing. In residential schemes of between 1 and 4 dwellings, it requires a financial contribution towards affordable housing, equivalent to the cost of 20% of the gross number of dwellings, which is sought by legal agreement.

¹ Elmbridge Borough Council Development Management Advice Note 1: Understanding Housing Need, 2018

17. A planning obligation may however only be sought if it would be necessary, directly related to the development and fairly and reasonably related to it in scale and kind as provided by regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations).
18. I have had regard to the Planning Practice Guidance (PPG) which says that provision of affordable housing should only be sought for residential developments that are major developments (normally more than 10 dwellings). However, the Council's evidence outlines that house prices in Elmbridge are significantly above regional and national averages and that there is an acute and substantial need for affordable housing. There is evidence that affordable housing contributions from small sites have made a significant contribution to the provision of affordable homes in the Borough. None of this is disputed by the appellant. Given the need for affordable housing in the Borough, and the importance of small sites in achieving the aim of Policy CS21 of the CS, I attach significant weight to the evidence of affordable housing need provided by the Council, notwithstanding the intentions of paragraph 63 of the Framework and the PPG.
19. Whilst I note the appellant states that he is happy to complete and sign any other required forms to enable him to obtain planning permission, it remains that no legal agreement is before me to consider, pursuant to securing an affordable housing contribution. There is also little evidence that the scheme would not be viable if such a contribution were made. It is therefore the responsibility of the appellant to provide any such agreement. Accordingly, an affordable housing contribution secured by a legal agreement would be consistent with the requirements of CS policy CS21 and satisfies the tests set out in regulation 122(2) of the CIL Regulations and paragraph 56 of the Framework.
20. I therefore conclude an affordable housing contribution is necessary but has not been adequately secured and so the proposal fails to accord with Policy CS21 of the CS as well as the Elmbridge Borough Council Developer Contributions Supplementary Planning Document, 2012. These require, amongst other things, a financial contribution towards affordable housing on development sites of between 1 and 4 dwellings.

Other Matters

21. The development would make an appropriate and efficient use of the site and I have not found harm to the character and appearance of the area or important trees. Highway safety and the living conditions of neighbouring occupiers are also not matters in dispute between the Council and appellant, and I have little evidence to convince me to reach a different view.
22. The development would provide one additional home, enabling both the appellant and his son's family to live at the site. However, this modest increase does not outweigh the consequent requirement for an affordable housing contribution, which has not been secured, and which on the basis of the available evidence, justifies dismissing the appeal.

Conclusion

23. For these reasons and having regard to all other relevant matters raised, I find that the development conflicts with the development plan as a whole, and conclude that the appeal should be dismissed.

Paul T Hocking

INSPECTOR