



Appeal Decision

Site visit made on 27 August 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2019

Appeal Ref: APP/K3605/W/19/3229182

99 Sidney Road, Walton-on-Thames KT12 2LX

- 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 Surrey Property & Homes Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2018/3755, dated 17 December 2018, was refused by notice dated 21 March 2019.
 - The development proposed is the extension and subdivision of the existing property to provide a pair of 5 bedroom semi-detached houses.
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Decision

1. The appeal is allowed and planning permission is granted for the extension and subdivision of the existing property to provide a pair of 5 bedroom semi-detached houses at 99 Sidney Road, Walton-on-Thames KT12 2LX, in accordance with the terms of the application, Ref: 2018/3755, dated 17 December 2018, subject to the conditions set out at the end of this decision.

Procedural Matters

2. A Daylight and Sunlight Assessment (April 2015) (the DSA) has been submitted by the appellant in support of their appeal. Following consideration of its findings, the Council has confirmed that it no longer wishes to defend its first reason for refusing to grant planning permission in so far as it refers to the proposed development resulting in an unacceptable loss of light for neighbouring occupiers at Nos 97 and 101 Sidney Road (Nos 97 and 101). However, the Council continue to assert that the proposal would cause harm to neighbouring living conditions through having an overbearing effect upon occupiers at Nos 97 and 101. I shall consider the appeal on this basis.
3. The Council has also confirmed that it no longer wishes to defend its second reason for refusing to grant planning permission. This is following receipt from the appellant of a signed and completed Unilateral Undertaking that secures payment to the Council of an Affordable Housing Contribution calculated in line with its adopted guidance. I shall determine the appeal on this basis.
4. The appellant, as part of their evidence, has produced an alternative revised plan¹ (the revised plan) that illustrates the provision of storage areas as opposed to bedrooms at attic floor level. They consider that the revised plan could be considered for determination in circumstances where such changes to

¹ Ref: 840-20 Rev D

the scheme were deemed necessary to make the development proposal acceptable.

5. However, it is important, in the interests of ensuring that no one with an interest in this appeal is unfairly prejudiced, that what is considered at appeal is essentially what was considered by the Council at planning application stage. Indeed, as set out in Annex M of the Procedural Guide Planning Appeals - England (August 2019), the appeal process should not be used to evolve a scheme. The revised plan indicates a materially different scheme to that considered by and consulted upon by the Council. I do not therefore propose to consider the planning merits of the scheme as depicted upon the revised plan and shall instead be determining the appeal based on the plans submitted to the Council.

Main Issues

6. The main issues are:

- Whether or not the proposal would make an effective use of land, with particular regard to the intended housing type; and
- The effect upon the living conditions of existing occupiers at Nos 97 and 101 Sidney Road, with particular regard to outlook.

Reasons

Effective use of land

7. Policy CS19 of the Elmbridge Core Strategy (July 2011) (the Core Strategy) states that the Council will seek to secure a range of housing types and sizes on developments across the Borough in order to create inclusive and sustainable communities reflecting the most up to date Strategic Housing Market Assessment (SHMA) in terms of the size and type of dwellings.
8. The supporting text to Policy CS19 identifies, at the point in time of its drafting, there was a need for 90% of all new housing development to deliver 1, 2 and 3-bedroom dwellings in equal proportions within the Borough. However, the most up-to-date SHMA (2016) identifies an even greater need for these housing types. It confirms that, due to an over-delivery of larger housing, there is a need for just 1% of new homes to be of 4 bedroom type or larger.
9. A Council advice note² refers to the 2016 SHMA's finding that there is an overwhelming need for smaller new homes and sets out that the number of new 4 bedroom and above homes in the Borough has already achieved over the 1% need calculation specified in the SHMA. Furthermore, the Council's annual Authority Monitoring Report 2017/2018 indicates that 46.9% of all housing completions related to properties containing at least 4 bedrooms. In another related Council advice note³ it is made clear that, in the interests of making the most efficient use of land, any scheme should avoid the inclusion of 4 bedroom and above properties.
10. The proposal before me involves extensions and the subdivision of an existing dwelling to create a pair of 5 bedroom semi-detached properties. The scheme, by virtue of the type of housing proposed, conflicts with the requirements of

² Development Management Advice Note 1: Understanding Housing Need (September 2018)

³ Development Management Advice Note 2: Optimising Development Land (September 2018)

Policy CS19 and with the Council's need calculations. In order to fully understand the implications of this identified conflict, it is important to consider the likely suitability of the site for accommodating alternative forms of development and, more specifically, its potential suitability for incorporating a greater number of smaller housing types.

11. The site currently contains a large detached dwelling that is situated upon a residential street that is predominantly characterised by frontage development and the presence of sizeable semi-detached and detached dwellings. I am not aware of any existing flatted developments in the site's immediate vicinity. Considering this surrounding context, the site, I consider, does not readily lend itself to accommodating flats or, indeed, to a greater extent of sub-division when compared to the scheme that is now before me. However, I accept that, as indicated upon the revised plan, a potential alternative scheme to provide a pair of units with a lesser number of bedrooms would represent a realistic proposition.
12. I note that the Council has referred to dismissed appeals⁴ for housing development elsewhere in the Borough where there was also conflict identified with Policy CS19. I note that each of these proposed schemes were for a greater number of units when compared to the proposal before me and involved the construction of new buildings rather than the extension and reconfiguration of an existing building. Indeed, with respect to these other sites, there would likely have been greater opportunities available to formulate new-build developments on comparatively larger sites to meet Policy CS19's objectives. In any event, I must consider the appeal proposal before me based upon its own individual merits.
13. Whilst factoring in the site-specific circumstances outlined above, I find harm due to the failure to deliver a suitable type of housing contrary to identified need. The proposal conflicts with Policy CS19 of the Core Strategy in so far as it seeks to secure a range of housing types and sizes on developments across the Borough in order to create inclusive and sustainable communities reflecting the most up to date SHMA in terms of the size and type of dwellings. I shall return to this conflict in my planning balance below.

Living conditions

14. The appeal site is sandwiched between neighbouring residential properties consisting of No 97 to the northwest and No 101 to the southeast. No 97 makes up part of a pair of semi-detached properties and incorporates a single storey element to the rear (the single storey element) that abuts the appeal site's side boundary. No 97 is served by various glazed openings to its rear-facing elevations, including bi-folding doors to the single storey element. No 101 also makes up part of a pair of semi-detached properties and is also served by various glazed openings to its rear elevation that include bi-folding doors at ground level. A garage is located to No 101's side, which abuts the appeal site. Nos 97 and 101 are served by relatively long and spacious rear garden areas, which incorporate decked/patio areas to the immediate rear of the dwellings.
15. The proposal involves the construction of extensions to the rear of the appeal building. These would be part two-storey and part single storey. The

⁴ APP/K3605/W/18/3218253; APP/K3605/W/18/3218070; APP/K3605/W/19/3222420

extensions would continue the side building lines of the existing dwelling, as well as, in the case of the two-storey additions, its current eaves and ridge height. Thus, extents of flank wall would address both the north-western and south-eastern boundaries of the site across short intervening distances and would be visible to neighbouring occupiers.

16. With respect to No 97, the two-storey extent of the proposed works would extend a relatively limited distance beyond where the single storey element currently extends to. Whilst the proposed works would be located alongside the single storey element and in proximity to where its rear-facing bi-folding doors are located, only views of part of the intended two-storey works would be potentially visible at oblique angles from behind these bi-folding doors. I am also content that the extensions would not have an oppressive effect when viewed from other rear-facing openings at No 97, including those at upper floor level due to the significantly raised height of such viewpoints above ground level.
17. Whilst the proposed extensions would be readily visible from No 97's private rear garden, the visual effect would be tempered due to the presence of the single storey element against the site's boundary. The proposed extensions would abut a relatively limited part of the garden area's perimeter such that I am satisfied that the development would not have an overbearing effect and would not adversely affect the living conditions of neighbouring occupiers at No 97. This is notwithstanding the presence of a decked external area to the immediate rear of this dwelling.
18. With respect to No 101, I note the presence of this property's garage adjacent to the appeal site's boundary. This effectively provides a buffer between the proposed development and habitable internal areas of No 101. Indeed, the glazed rear-facing doors at ground floor, which serve open-plan living arrangements, are set away from the appeal site's boundary. This would mean that any potential views of the proposed extensions from internal areas at No 101 would necessarily be from setback positions and on oblique angles.
19. Nevertheless, I acknowledge that the flank wall that would address the south-eastern boundary of the appeal site would have a close relationship with No 101's rear garden area and be noticeable to users of this space. Indeed, it would run for a not insignificant distance in proximity to this garden area. It was also apparent from inspection that the patio area that serves No 101 extends across the full width of the plot, which emphasises the potential for this particular part of the garden to be actively used.
20. However, it was also evident from inspection that much of the perimeter of No 101's rear garden area is not surrounded by close-by built development. This is notwithstanding the presence of a small single storey extension to the rear of No 103 Sidney Road. Thus, the garden's surroundings largely provide an open aspect for its users. In this context, whilst noting that a noteworthy extent of the proposed south-eastern flank wall would be directly visible from No 101's rear garden, I do not consider that the proposed extensions would be overbearing or lead to an undue loss of outlook for neighbouring occupiers. Indeed, I am satisfied that the works would not have an oppressive effect given the arrangements that are in place to the remainder of the garden's sizeable perimeter.

21. For the above reasons, the proposal would not cause harm to the living conditions of existing occupiers at Nos 97 and 101 Sidney Road, with particular regard to outlook. The proposal accords with Policy CS17 of the Core Strategy, Policy DM2 of the Elmbridge Local Plan Development Management Plan (April 2015) and with the guidance contained within the Design and Character Supplementary Planning Document Companion Guide: Home Extensions (April 2012) in so far as these policies and guidance require development proposals to protect the amenity of adjoining and potential occupiers and users by being designed to offer an appropriate outlook.

Other Matters

22. The DSA that makes up part of the appellant's evidence analyses the potential impact of the development on the daylight and sunlight currently received by Nos 97 and 101. It sets out that the reduction in daylight/sunlight to the habitable rooms of Nos 97 and 101 that would be caused by the proposal would not be significant and would be within the acceptable limits documented within BRE Guidelines. The DSA also concludes that neighbouring amenity/garden areas would experience little or no change in sunlight levels. These findings are consistent with my own observations on site, such that I am satisfied that neighbouring living conditions would not be harmed through loss of light.
23. Policy CS21 of the Core Strategy sets out that, on sites of 1-4 dwellings, a financial contribution equivalent to the cost of 20% of the gross number of dwellings shall be provided towards affordable housing. The National Planning Policy Framework (February 2019) (the Framework), on the other hand, states that provision of affordable housing should not be sought for residential developments that are not major developments.
24. However, the Council has provided detailed evidence to demonstrate that house prices in the Borough are significantly above regional and national averages and that there are thus significant difficulties associated with delivering affordable housing locally. It has also been evidenced that contributions from small sites have made a significant contribution to the provision of affordable homes. I note that the Framework also states that it is important that the needs of groups with specific housing requirements are addressed, and allows for off-site provision to be made where robustly justified. Based on the evidence before me, I am content that a financial contribution is both necessary and appropriate.
25. A financial contribution of £61,824 has been calculated and agreed by the main parties in accordance with the appropriate formula contained within the Council's Developer Contributions Supplementary Planning Document (February 2012). A signed and completed Unilateral Undertaking, dated 7 August 2019, is before me that binds the appellant to pay the affordable housing contribution prior to carrying out any material operation at the site. I am satisfied that the calculated figure constitutes an appropriate level of provision such that the scheme complies with the requirements of Policy CS21 and with the tests for planning obligations set out under paragraph 56 of the Framework.

Planning Balance

26. The Council has acknowledged that it cannot currently demonstrate a five-year supply of deliverable housing sites. The Framework is clear that in such circumstances the policies most important for determining applications/appeals

are considered out-of-date and that the tilted balance, as set out under paragraph 11 of the Framework, applies. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.

27. I have identified conflict with Policy CS19 of the Core Strategy. This is not a policy that relates to the supply of housing and to my mind it is wholly consistent with the Framework. Nevertheless, it is important to factor in the particular site circumstances. The scheme before me is for the conversion and extension of the existing dwelling that would result in a net increase in one dwelling. Furthermore, in light of its constraints and defining characteristics, the site does not obviously lend itself to the delivery of a greater number of smaller units. Indeed, in this context, it could be reasonably argued that the proposal would promote an efficient and effective use of land. The harm that would be caused due to the large size of the proposed dwellings failing to meet an identified housing need would be relatively limited therefore. In such circumstances I consider that there are material considerations that indicate that the identified conflict with Policy CS19 should not be determinative in this case.
28. In terms of the scheme's benefits, the provision of an additional unit of housing in an area where there is an acknowledged shortfall would make a small but significant contribution to the Council's housing deficit. The financial contribution to be secured towards affordable housing would help meet the needs of groups with specific housing requirements and would thus deliver a social benefit. Considering the modest nature of the scheme before me and therefore the relatively limited associated contribution, I afford this benefit moderate weight.
29. Having considered the benefits and adverse impacts of the scheme before me, I conclude that the harm and policy conflict that I have identified due to the type of housing that is proposed would not significantly and demonstrably outweigh the benefits. The proposal therefore represents sustainable development that accords with the Framework's policies when taken as a whole.

Conditions

30. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity purposes.
31. In the interests of certainty, a condition specifying the approved plans is required. To ensure that a satisfactory external appearance is achieved, a condition is required that secures the use of complimentary external facing materials as set out upon the application form.
32. In the interests of protecting the privacy of adjoining and future occupiers, a planning condition is required to ensure that, where proposed to be, side-facing windows are indeed obscure glazed. Given the proximity of neighbouring plots, it is also reasonable and necessary to require that such openings are non-openable up to a height of 1.7m above internal floor level.

33. It was apparent from inspection that the external area that occupies the front portion of the site is already laid out to accommodate parked and manoeuvring vehicles. This area provides the only location on-site for off-street parking. In the interests of highway safety and to ensure the provision of appropriate parking facilities, a condition is reasonable and necessary to ensure that the area is retained for the primary purpose of parking and turning vehicles – this would equally apply to each of the plots that would be created. The space constraints of each driveway would not necessarily lend these areas to being conveniently entered and exited in a forward gear. However, this would equally apply to numerous similar existing driveway areas in the vicinity of the site that abut Sidney Road, which, from inspection, did not appear to be particularly heavily trafficked route. I am thus satisfied that highway safety would not be prejudiced by the proposal, subject to a condition being applied as discussed in this paragraph.
34. In the interests of reducing pollutants and encouraging sustainable transportation choices, a condition is reasonable and necessary to secure that each dwelling is served by an Electric Vehicle charging socket. Whilst the Council, in suggesting a draft condition to this effect, has pinpointed specific requirements for such sockets, from the evidence before me such detailed specifications are not set out in associated local policy or guidance. It would not therefore be reasonable for the condition to be so prescriptive and shall instead be more flexibly worded. In any event, the final details would be secured by way of a scheme to be approved in writing prior to the first occupation of the development.
35. As set out in the Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. In the interests of protecting the living conditions of neighbouring occupiers, noting the not insignificant size of the rear extensions hereby approved, I am satisfied that it would be both reasonable and necessary to withdraw the future use of permitted development rights with respect to any additional enlargements, improvements or alterations, roof additions or outbuildings covered by Schedule 2, Part 1, Classes A, B and E of the General Permitted Development Order.

Conclusion

36. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved plan: 840-20 Revision C.
- 3) The development shall not be constructed other than in the following materials as set out on the application form: painted render to the external walls to match existing; plain clay tiles to the roof; grey coloured UPVC to window and door openings.
- 4) Prior to the first occupation of the development hereby permitted, as depicted upon approved plan 840-20 Revision C, all rooflight and first floor level window openings located on the north-western and south-eastern roof slopes and elevations of the development hereby permitted shall be glazed with obscure glass, which shall accord with level three obscurity in accordance with Pilkington Texture Glass privacy levels (other glass suppliers are available) and shall only be openable above a height of 1.7m above the internal floor level of the room that each opening serves. These rooflight and window openings shall be permanently retained in this condition thereafter.
- 5) External areas of the site situated forward of the building's southwest front building line, as depicted on the Block Plan that makes up part of approved plan 840-20 Revision C, shall at all times be retained for the primary purpose of parking and turning vehicles.
- 6) The development hereby permitted shall not be occupied unless and until each dwelling is provided with an Electric Vehicle charging socket in accordance with a scheme to have first been submitted to and approved in writing by the Local Planning Authority. Once installed, the approved scheme shall be retained at all times thereafter.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any Order revoking or re-enacting that Order, no development falling within Schedule 2, Part 1, Classes A, B or E of Schedule 2 of the said Order shall be carried out within the curtilage of any dwellinghouse, unless planning permission is first granted by the Local Planning Authority.