
Appeal Decision

Site visit made on 16 October 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/K3605/W/19/3233478

Land to Rear of 23 Claremont Road, Claygate, Esher KT10 0PL

- 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 Mrs E. Smalley against the decision of Elmbridge Borough Council.
 - The application Ref 2018/2749, dated 11 September 2018, was refused by notice dated 6 March 2019.
 - The development proposed is a new detached dwelling and associated car parking on currently vacant land.
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Decision

1. The appeal is allowed and planning permission is granted for a new detached dwelling and associated car parking on currently vacant land at Land to Rear of 23 Claremont Road, Claygate, Esher KT10 0PL in accordance with the terms of the application, Ref 2018/2749, dated 11 September 2018, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mrs E. Smalley against Elmbridge Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue raised in this case is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site occupies an area of land with a frontage to Claygate Lodge Close but is to the rear of an existing dwelling which fronts Claremont Road. Within the vicinity there is a distinct variety in the design of dwellings, but generally dwellings are two storeys in height.
5. The scheme would be visible from the road within the Close and also from vantage points along Claremont Road. The proposal would have an overall height of approximately 8.9 metres (m) and would undoubtedly be an obvious addition to the site. However, given that the area is characterised by two-storey dwellings, some of which are substantial and imposing properties, notwithstanding the siting of the dwelling to the rear of an existing property, it would not appear as an overly tall feature in views from public vantage points.

6. The Council has also referred to the building having an undue prominence when viewed from the garden area of 1 Claygate Lodge Close. However, in this respect I note that the roof of the dwelling is proposed to be hipped and would hip away from this existing property. As such any views towards the proposal would be of a single storey side wall with the roof extending away from the viewer. It would therefore not be unduly prominent in this regard.
7. Whilst the dwellings immediately adjacent to the site are sited in larger plots, there are examples of large dwellings sited in plots of more restricted dimensions in the wider area. The siting incorporates sufficient separation from the side boundaries. Furthermore, the use of a hipped roof also serves to diminish the scale of the property. Consequently, despite the plot within which the dwelling would be located being smaller than those surrounding it, it would not appear as a cramped form of development
8. There is reference to the existing dwellings within the Close being of a "more subservient style". However, I observed there to be substantial dwellings both within and visible from the Close. In this context, the size and scale of the proposal would not be at odds with, but would reflect, that of dwellings present within the immediate and wider area.
9. The front elevation of the proposal is broken up into a number of gabled elements of differing widths and heights. This creates a level of interest and serves to break up the perceived bulk and massing of the proposal. Whilst it does not mimic the properties in the immediate vicinity, given the variation in design that I have referred to above, the proposed design would have an acceptable appearance that would integrate appropriately with its surroundings.
10. Thus, I find that the proposal would have no harmful effect on the character and appearance of the area. Accordingly, it would comply with policy DM2 of the Elmbridge Local Plan – Development Management Plan (2015), as well as policies CS11 and CS17 of the Elmbridge Core Strategy (2011) (the Core Strategy). These policies, amongst other things, seek to ensure that new development delivers a high-quality design that integrates with the locally distinctive townscape, that development in Claygate is well designed and that development preserves the character of an area. In complying with the above policies, the scheme would also accord with the guidance of the Elmbridge Local Plan – Design and Character Supplementary Planning Document, as well as the design aims of the National Planning Policy Framework (the Framework).

Other Matters

11. In refusing the planning application the Council did not allege any harm to the Claygate (Foley Estate) Conservation Area (the CA). In finding above that the scheme would not have an adverse effect on the character or appearance of the area, I also consider that the scheme would preserve the character and appearance of the CA, thus would not be harmful to its significance as a designated heritage asset.
12. Policy CS21 of the Core Strategy seeks that a contribution towards the provision of affordable housing be sought on all housing sites, on sites of 1 – 4 dwelling a financial contribution will be required. However, paragraph 63 of the Framework outlines that the provision of affordable housing should not be

sought for residential developments that are not major developments, other than in designated rural areas.

13. The Council highlight local evidence of affordable housing need is significant and that high levels of need are evidenced in a Strategic Housing Market Assessment. It is also stated that the Council is reliant on contributions from small sites in order to meet affordable housing policy objectives. These matters weigh significantly in favour of seeking a contribution towards affordable housing. The appellant has not disputed these matters. Having regard to this information therefore, I consider that the specific circumstances within this Borough, together with the policy of the development plan are sufficient, in this case, to outweigh the guidance of the Framework.
14. A completed legal undertaking has been submitted securing the requisite contribution. The Council had the opportunity to comment on this and highlighted a number of issues with the submitted legal undertaking. The appellant has subsequently submitted a revised undertaking, which the Council has had the opportunity to provide further comment on. The Council has confirmed that it has no further comment to make. A certified copy of the undertaking has now been provided. On the evidence before me, it appears that the need for the contribution sought by the Council arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010. Subject to the legal agreement, dated 14 December 2018, the proposal secures the appropriate financial contribution towards the provision of affordable housing and so would comply with Policy CS21 of the Core Strategy, which seeks to ensure that new development makes adequate contributions towards the provision of affordable housing.
15. Concern has been expressed by interested parties in respect of the effect of the proposal on the living conditions of neighbouring occupiers, particularly in regard to overlooking, overbearing effect and loss of light. No first-floor windows are proposed to either of the side elevations, other than rooflights serving a bathroom and closet, these could be obscurely glazed. Whilst there would be first-floor windows to the rear of the property, these would overlook the rear gardens of neighbouring properties. Given the orientation of existing dwellings, there is already a degree of mutual overlooking between properties in the area and as such the scheme would not result in an unacceptable amount of overlooking. The dwelling would be located a sufficient distance from neighbouring properties so as to ensure that it would not have an oppressive visual effect. Moreover, given the orientation of the proposal combined with the surrounding levels and separation distances between dwellings, there would be no significant loss of light to neighbouring properties.
16. Comment has been made in respect of inaccurate information being shown on the submitted plans, particularly the position of trees and surrounding buildings. Having reviewed the information before me I am satisfied that the correct location of the trees within the site is now shown and that the siting of the proposed building is accurate. I was also able to view the relationship of neighbouring properties to the site at the time of my visit. As such, I am satisfied that I have sufficient information before me to determine the appeal.
17. The matters of the potential for the proposal to increase flooding and result in pollution have been raised. No substantive evidence has been submitted to show that the development would result in adverse effects in these regards.

Thus, they have little bearing on my decision. Additionally, it has been stated that the proximity to existing dwellings and the density of the development would be harmful, however in light of my comments in respect of separation between existing properties and the site boundaries, I consider that there would be no harm in these respects.

18. I note reference to a covenant placed on an adjacent property. However, as this is a private matter between the parties involved, this has little bearing on my decision. In respect of concern that the development would result in additional on-street parking, I find that the scheme makes adequate provision for useable, off-street parking. I am also satisfied that suitable arrangements for safeguarding trees within the site can be made through the use of appropriate planning conditions.

Conditions

19. I have imposed conditions relating to the commencement of development and to ensure compliance with the submitted plans, for the avoidance of doubt and in the interests of clarity. So that the development integrates appropriately with its surroundings, I have imposed a condition in respect of agreeing site levels. To ensure that the proposal has a satisfactory external appearance I have imposed a materials condition as well as conditions in respect of the implementation of waste and recycling bin storage space. In the interests of the living conditions of neighbouring occupiers, a condition in respect of obscure glazing is necessary, as is a condition in respect of landscaping and boundary treatments.
20. The site contains trees subject to a Tree Preservation Order (TPO), I have also included a condition to protect these trees during the course of the development, in the interests of safeguarding the character and appearance of the area. Given that the trees are subject to a TPO, I do not consider it necessary to include a condition in respect of the retention of these trees as, in my view, the TPO provides for such.
21. A condition has been recommended in respect of removing permitted development rights for works within the curtilage of the dwelling. No exceptional circumstances have been put forward to justify this and as such I am unable to conclude that this would meet the test of necessity.

Conclusion

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

Martin Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 17.579.L.201 dated 12.02.18,
 - 17.579.B.201 Rev D dated 30.11.18
 - 17.579.P.201 Rev D dated 30.11.18
 - 17.579.P.202 Rev A dated 12.02.18
 - 17.579.P.204 Rev D dated 30.11.18
 - Tree Constraints Plan dated 30/11/18
 - Tree Protection Plan dated 30/11/18
- 3) No site clearance, preparatory work or development shall take place until measures for the protection of the retained trees, as contained within the arboricultural method statement (contained within report "Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan", dated 26/03/18) and the tree protection plan (dated 30/11/18) have been fully implemented. The scheme for the protection of the retained trees shall be maintained for the course of the development work.
- 4) No development shall commence until levels details including the existing and proposed ground, finished floor, ridge height and hard surfaced areas levels, a datum point and spot heights, including site sections showing adjoining buildings, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with those approved levels.
- 5) No above ground development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 6) Prior to the first occupation of the development hereby permitted the first floor side facing rooflight windows on the southern elevation of the development hereby permitted shall be glazed with obscure glass that accords with level three obscurity as shown on the Pilkington textured glass privacy levels and only openable above a height of 1.7m above the internal floor level of the room to which it serves. The windows shall be permanently retained in that condition thereafter.
- 7) Prior to first occupation of the development, the waste bins and recycling storage shall be installed in accordance with the proposed site plan, drawing number P.201D.
- 8) Notwithstanding the submitted information, prior to first occupation a plan indicating the positions, height, species, design, materials and type of boundary treatment to be erected, shall be submitted to and approved in writing by the local planning authority. The boundary treatment(s) shall be completed, in accordance with the approved details, prior to first occupation and shall be permanently retained thereafter.