
Appeal Decision

Site visit made on 16 December 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2020

Appeal Ref: APP/K3605/W/19/3237701
37 Molesey Road, Hersham KT12 4RN

- 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 Jackson against the decision of Elmbridge Borough Council.
 - The application Ref 2018/3808, dated 1 February 2019, was refused by notice dated 18 June 2019.
 - The development proposed is a new 2-bedroom dwelling with associated parking and refuse storage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr David Jackson against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have amended the description of development in the banner heading to omit superfluous information that addresses the type of application and the location of the proposal, as they do not form part of the description of development.
4. My attention has been drawn to policies of The London Plan but as this does not apply to the Borough I have not found against these policies. Similarly, I have been referred to the Planning Practice Guidance¹ in relation to design. As this was replaced with alternative wording on 1 October 2019, I have not found against this guidance.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the site and the surrounding area.

Reasons

6. The appeal site is within an area that comprises a varied mix of commercial, residential and office development. To the north is the Hersham Place Technology Park, a large group of three-storey office buildings set within primarily hard landscaped grounds. Although the site is adjacent to this office

¹ Paragraph: 004 Reference ID:26-004-20140306 Revision Date 06 03 2014.

development, the environs of the site are not comparable. The site is situated to the rear of 37 Molesey Road and accessed by a narrow and unmade service road from Claremont Close. This serves outbuildings and garaging to the rear of properties in Molesey Road, including that present within the site.

7. The houses in the locality vary in size, shape and design, but the layout of surrounding streets is coherent, with buildings arranged parallel with the street and incorporating a frontage. Built form beyond the frontage primarily takes the form of those ancillary structures referred to above, which tend to be low in scale. Taken together these features positively contribute to the character and appearance of the area.
8. The site has been the subject of two unsuccessful appeals. The first was for a pair of three-storey dwellings on land to the rear of 35 and 37 Molesey Road². The second was for a detached single storey house with rooms in its roof space³. The Inspectors for both decisions also had regard to the decisions relevant to the dwelling constructed at 29 Molesey Road⁴. Although the policies referred to in the determination of those appeals have been replaced, the location of the development and the environs of the site and its surroundings are largely the same. Both decisions are therefore material considerations in my determination of this appeal.
9. I recognise that the site does not currently form part of the curtilage of No 37 and is clearly distinguishable from other land due to the presence of boundary features. Nevertheless, the proposal would not have a street frontage and would be in a position behind other houses. The proposal would therefore reduce the effect of the separation between existing single depth development in Molesey Road and Claremont Close. It would be for development unrelated to the tighter grain of conventional frontage development found in the surrounding area, which would have a significantly detrimental effect on the character of the area.
10. The full circumstances of the decisions for the new house at No 29 are not before me, including the appeal decision⁵. However, that house has a frontage with Claremont Close and is positioned along the same building line as other houses within the street. I have therefore arrived at the same conclusion as the previous Inspectors that it is not directly comparable with the appeal scheme before me in this respect.
11. The proposal would incorporate one storey above ground level, with a subterranean level beneath. Although this would be taller than the existing building situated within the site it would be low in scale like the outbuildings found nearby. Neighbouring houses and buildings, boundary features and planting within the vicinity of the site would be likely to intervene in views of the proposal from surrounding streets and the adjacent Technology Park. The proposal would therefore not appear as a dominant form of development within the site or its surroundings.
12. I note that the site is not situated within a particularly sensitive location, as the site is not within a locally designated area or conservation area, nor is it within

² Appeal Ref: APP/K3605/A/10/2141034

³ Appeal Ref: APP/K3605/A/14/2213466

⁴ Outline planning permission was approved under application Ref: 2010/0619 but an appeal followed in connection with application Ref: 2012/3546 for Reserved Matters (Appeal Ref: APP/K3605/A/13/2190420).

⁵ Appeal Ref: APP/K3605/A/13/2190420

the setting of any listed buildings. I also recognise that the proposed house would be built to a high standard of contemporary design and environmental performance that responds to the site context, including a palette of carefully considered facing materials. However, there is no substantive evidence before me to suggest how the proposal would serve as a model or increase consciousness to a point where standards of design would improve more generally in the Borough as a result of it.

13. There are no standards in the development plan which refer to the amount of outdoor space that should be provided in relation to new housing. Moreover, policy DM10 suggests that this should be commensurate with the type and location of housing proposed. I am mindful that the new house at No 29 occupies a greater proportion of its plot than the appeal scheme before me. The space around the proposed house, including that within the subterranean level, would not be to the extent of neighbouring houses but it would not appear cramped within the site. Furthermore, whilst the proposed parking and turning area would adjoin the existing access route, the nature and extent of the proposed surface treatment would be unlikely to lead to a dominant appearance. I am also mindful that a scheme of landscaping could be approved by planning condition to soften the appearance of the proposal within the site.
14. In light of the above, the proposal would have a neutral effect on the appearance of the site and the surrounding area.
15. I appreciate that there is no requirement within the policies of the development plan, the Council's SPD⁶ or the relevant Companion Guide for Hersham⁷ for new houses to incorporate a front garden. Nonetheless, I have found that the proposal would not respond to the positive features of the locality, which includes houses with a defined frontage to neighbouring streets.
16. Similarly, I have been referred to two examples of development scenarios within the Council's SPD. Given that these scenarios are for larger schemes incorporating a street frontage in an area with very shallow frontages and for a hardstanding area to the rear of a shopping parade, neither would be directly comparable with the appeal scheme before me.
17. I have considered the individual planning merits of the appeal scheme before me and I have found there to be harm to the character of the area. The abovementioned decisions and examples of development do not lead me to a different conclusion.
18. For the reasons outlined above, despite my favourable consideration of the effect of the development on the appearance of the area, I conclude that the proposed development would have a significantly detrimental effect on the character of the area. Hence, the proposal would not accord with policies CS5 and CS17 of the Elmbridge Core Strategy (Adopted July 2011) (CS), policy DM10 of the Elmbridge Local Plan Development Management Plan (Adopted April 2015) (DMP) and the Elmbridge Local Plan Design and Character Supplementary Planning Document (adopted April 2012). Together these policies and guidance require new development to deliver high quality design, which responds to the positive features of individual locations, integrating

⁶ Pages 63 and 65 of the Elmbridge Local Plan Design and Character Supplementary Planning Document (adopted April 2012).

⁷ Design and Character Supplementary Planning Document Companion Guide : Hersham (Adopted April 2012)

sensitively with the locally distinctive townscape. Innovative contemporary design that embraces sustainability should also improve local character. Housing on garden land to the rear of existing residential properties will be appropriate provided that it is well designed to respect the character of the area.

19. The proposal would also conflict with paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) which, amongst other things, require that developments take the opportunities available for improving the character and quality of an area, are visually attractive as a result of good layout and maintain a strong sense of place.

Planning Balance

20. Paragraph 47 of the Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.
21. The development plan for the area comprises the CS and the DMP, both which predate the current Framework. However, paragraph 213 of the Framework makes it clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their consistency with the Framework.
22. The Council have confirmed that their available housing supply in the Borough does not meet the five years required by the Framework (paragraph 73). In light of this, the current development plan policies most important for determining the application are out-of-date. In such circumstances the normal planning balance does not apply, and the 'tilted balance' is engaged. This requires that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole (paragraph 11(d)(ii) of the Framework).
23. In the context policies CS5 and CS17 of the CS and policy DM10 of the DMP, the approach to design in the Borough does not differ from the approach to achieving well designed places set out in Section 12 of the Framework. Accordingly, I afford the identified conflict of these policies with the Framework limited weight, so these policies should be afforded full weight.
24. I note the contribution that would be made to the supply of housing by this small site, particularly as it could be built-out relatively quickly. There is no threshold for the assignment of weight to the quantum of residential development and the proposal would deliver a two-bedroom house. This would contribute to the overall housing mix in the Borough, as required by policy CS19 of the CS. Furthermore, the appellant has signed a unilateral undertaking to make a financial contribution to the provision of affordable housing in the Borough. The proposal would therefore be in accordance with policy CS21 of the CS. However, as the contribution to the supply of housing, including affordable housing, would be limited in its extent, I afford these benefits moderate weight.

25. Some economic benefits would arise from, for example, employment and procurement of materials during the construction period and the application of the New Homes Bonus and Community Infrastructure Levy. The proposal would also be close to services and facilities that would be supported by expenditure from occupants, and railway stations in Walton-on-Thames and Hersham, which provide connections to London and the South Coast. Nonetheless, given the relatively modest scale of the proposals, such benefits would be limited in scale and kind, and consequently carry only limited weight.
26. Although garden land does not fall within the definition of Previously Developed Land, the Framework does not preclude its development. I also recognise that the proposal could be said to make more efficient use of the site. However, paragraphs 117 and 122 of the Framework are clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
27. The lack of harm associated with all other matters, including the internal space standards for occupiers of the proposed development, living conditions of neighbouring occupiers and the vehicular access into the site, would neither weigh for nor against the appeal scheme. However, the proposed development would result in significantly detrimental harm to the character of the area, contrary to the policies of the development plan and the Framework.
28. Having regard to the above, I consider that the significantly detrimental harm to the character of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. There is therefore nothing to justify a conclusion that the proposal should be considered other than in accordance with the development plan.

Conclusion

29. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR