The Planning Inspectorate

Appeal Decision

Site visit made on 21 January 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2020

Appeal Ref: APP/K3605/W/19/3239741
6 Claremont Lane, Esher, Surrey KT10 9DW

- 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 Moore Place Developments 3 Limited against the decision of Elmbridge Borough Council.
- The application Ref 2018/3749, dated 17 December 2018, was refused by notice dated 26 July 2019.
- The development proposed is redevelopment of the site for 9 houses and 4 flats, parking and landscaping, following demolition of the existing house, garage and outbuilding.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was made in the name of Moor Place Developments 3 Limited. The appeal form was lodged in the name of Mr Simon Foster, but written confirmation has been provided that this was an error, and the appeal can proceed in the name of Moore Place Developments 3 Limited. There is a slight discrepancy between the spelling given in this confirmation and that used on the original planning application. However, the spelling used in the written confirmation reflects that used within the appellant's appeal evidence and the Council's committee report. In the absence of any alternative clarity on this matter, I have therefore adopted this spelling in the banner heading above.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and Appearance

4. Claremont Lane is predominantly characterised by large detached dwellings set within generous plots. The dwellings differ in their scale, design and appearance, but are generally positioned behind deep frontages facing the street. Along with the significant screening present to boundaries including by mature vegetation and walls, this gives the street an attractive sense of spacious seclusion. A number of smaller residential roads branch from Claremont Lane resulting in some dwellings which are set at an angle to or

facing away from this street, and there are also examples of flatted blocks. However, neither the variety in the layout of development nor the mixed types, siting, scale or architectural style of the individual buildings disrupts the overall spaciousness which is a distinctive aspect of the area's character.

5. The Council's Design and Character Supplementary Planning Document (SPD) and SPD Companion Guide: Esher indicates that the appeal site is part of the Claremont Park and Clare Hill sub area. In this area, the typical plot ratios, building lines, architectural styles and materials of the area are identified as contributing an agreeable sense of cohesion to the character and appearance of the area as a whole. This character is well represented by Clare Hill which wraps the appeal site to its side and rear, and which comprises a gated street of large, detached dwellings within ample grounds and mature landscaping which heighten the sense of spaciousness.

6. The dwelling on the appeal site is accessed from Claremont Lane. It is positioned close to the boundary with the narrow tract of land that runs between Claremont Lane and 30 Clare Hill to the rear of the site, although spacing between the dwelling and its remaining boundaries is generous and there is a backdrop of large mature trees within adjacent sites. The brick wall and mature vegetation at the front boundary of the site provide some screening. However, the gated site entrance and land levels which increase away from the road and the boundary with the neighbour at 32 Clare Hill, afford some views into and across the site from the street scene.

7. The appeal proposes the demolition of the existing dwelling on the site, but there is no compelling evidence before me to suggest that the existing dwelling is of sufficient significance to merit retention. Nine houses and 4 flats are proposed in its place within 5 buildings that would be arranged in 2 facing rows. In themselves, I find that the proposed buildings would not be out of scale with others nearby. They would be of greater height than neighbouring dwellings, but the roof line nearby is varied and so this would not be incompatible. Given the varied street scene in the vicinity, I find that the appearance and materials of the individual buildings which would differ across the site would also be sympathetic.

8. However, the individual plots would also be smaller than the more generous size of those more typical nearby. The height of the buildings and the inclusion of flat roof sections would add to their overall bulky appearance. Taken together with the limited spacing between the buildings on the site, and between the dwellings and their boundaries, these factors would cause the buildings to appear oversized and cramped. The visual impact of this on the site would be reinforced by the recurrence of the impression across each plot.

9. In addition, given the overlapping arrangement of the 2 rows of buildings, as seen from the street scene the proposal would appear as a solid block of development extending across almost the entire width of the site resulting in an intrusive and dominant addition to this part of the street scene.

10. Although spacing would remain to either side of the appeal site within neighbouring sites, this would not compensate for the lack of spacing around the development within its boundaries. Moreover, while guideline standards relating to the minimum size of gardens may be met, these are general provisions relating to the borough as a whole. The development on the site would appear unrelated to the spaciousness which is characteristic to both

Claremont Lane and Clare Hill near to the site.

11. I acknowledge that the buildings at 2 and 4 Claremont Lane have a relatively close relationship to the boundaries at their sides, but these maintain more generous spacing to their front and rear boundaries. Additionally, they are closer to, and within sight of, the nearby town centre which has a less spacious character than is evident in the vicinity of the appeal site. Accordingly, the characteristics of these buildings are not directly comparable, and do not form a justification for the appeal proposal.

12. Turning to consider the arrangement of the proposed buildings on the site, the 2 buildings comprising plots 6 to 13 would have their rear elevations facing Claremont Lane. Despite the prevailing pattern of dwellings fronting the street, there are some examples of buildings set side-on to or facing away from Claremont Lane where they front the smaller roads which branch from it. As a result of this diversity, the proposed layout would be unusual but not extraordinary.

13. However, although there is also no consistent building line to this side of the street, site frontages are typically deep. The proposed buildings would be set closer to the street than is usual, a factor that would be emphasised by their position forward of both adjacent dwellings. Notwithstanding the lack of a regular building line and that planning permission may previously have been given for a new dwelling on the site set forward of the existing dwelling[1], taken together with the somewhat untypical layout with plots 6 to 13 turning their back on the street, this would cause the development to appear prominent along Claremont Lane, compounding the incongruous nature of the proposal in the street scene.

14. I have no reason to find that the proposed replacement of trees to the front boundary of the site would in itself be detrimental to the character or appearance of the area. However, given the siting of development above the level of Claremont Lane as well as the presence of the central access affording views into the site, I am not persuaded that development would be screened from Claremont Lane by the existing boundary treatment or the proposed tree planting, a conclusion supported by the street elevation drawing. The proposed landscaping would not therefore be effective in countering the prominence of the development in the street scene, and would do little to mitigate its cramped and uncharacteristic nature and the resulting significant adverse effect on the character and appearance of the area.

15. Policy CS17 of the Core Strategy 2011 (CS) seeks the efficient use of urban land and includes target densities. The supporting text to the policy also advises that replicating low density development would mean that housing targets could not be met within the urban area and people would have to travel further to access facilities and services. Even so, there remains a requirement within Policy CS17 that development responds to the positive features of individual locations, integrating sensitively with the locally distinctive townscape. Achieving a target density which the policy in any case acknowledges may vary according to the circumstances of a site, is not therefore a convincing justification to allow development that would cause harm to the distinctive spacious character of the area.

[1] Application ref 2001/2714

16. The appellant has referred to the identification of the appeal site for development within the Council's Local Plan Options Consultation, highlighting one option which suggests a capacity of 20 units on the site. However, I have not been provided with full details of the consultation or the background assumptions. Moreover, I do not know the status of the consultation or which, if any, of the options are to be progressed and so this is a factor of limited weight.

17. For all of these reasons, I therefore conclude that the proposal would cause significant harm to the character and appearance of the area. This would be contrary to Policy CS17 of the CS and Policy DM2 of the Development Management Plan 2015 (DMP). Together, these policies broadly seek the protection and enhancement of the character of the area, including through high quality design that integrates sensitively with locally distinctive townscape and takes account of the relevant character assessment companion guide in the Design and Character SPD. The proposal would also be contrary to a core planning principle of the National Planning Policy Framework (the Framework) which seeks new development of high quality design.

Planning Balance

18. I have found that the development would cause unacceptable harm to the character and appearance of the area and would thus conflict with CS Policy CS17 and DMP Policy DM2. These policies are therefore most important for determining the proposal. I find that these policies accord generally with the Framework in seeking high quality design, and I therefore afford the conflict significant weight.

19. However, there is no dispute between the parties that the Council is unable to demonstrate a 5-year supply of deliverable housing sites. Consequently, in accordance with the Framework, the policies which are most important for determining the proposal are considered to be out-of-date. In these circumstances, paragraph 11 of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

20. The appellant has referred to the 2019 results of the Housing Delivery Test which indicate a significant undersupply of housing delivery over the period 2015 to 2018 and the resulting application of a 20% buffer to the 5-year housing land supply requirement, but I have not been provided with information on the scale of the shortfall.

21. Nevertheless, the Framework refers to boosting significantly the supply of housing and the proposal would deliver a net gain of 12 dwellings on the site. It would also make more efficient use of this previously developed site providing a mix of different types and sizes of homes, and future occupiers would benefit from access to nearby services and facilities within the town centre encouraging travel by means other than the private vehicle. These are objectives which are strongly supported by the Framework, and the provision of additional homes for which there is an acknowledged need in this location is a benefit that carries considerable weight, although the contribution the development would make is moderated by its relatively small scale.

22. The main parties have also referred to an agreed Unilateral Undertaking to

secure the delivery of 4 affordable dwellings on the site in accordance with the provisions of CS Policy CS21. From the evidence before me, it appears that the requirement to provide affordable housing arises from the development, and may satisfy the tests set out at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The provision of affordable housing would be a benefit, but as I have not been provided with a copy of the signed Unilateral Undertaking, I cannot be certain that this would be appropriately secured.

23. I acknowledge the appellant's suggestion that the development would provide a high quality landscaping scheme and distinction between public and private spaces, and that it would conform to best practice sustainability criteria, incorporate sustainable drainage features, minimise opportunities for crime and would be built to Lifetime Homes standards. I also have no reason to find that there would be harm to biodiversity, heritage assets, or the living conditions of future occupiers. However, the acceptability of development in these regards and the lack of objections from statutory or internal Council consultees, including on transport and highways grounds, are neutral factors in the planning balance rather than a benefit of the proposal.

24. The Framework advises that where there is an existing shortage of land to meet housing needs it is important that decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. However, it requires any assessment in this context to take into account the policies within the Framework. These identify good design as a key aspect of sustainable development and highlight that development should be sympathetic to local character and add to the overall quality of the area.

25. The harm I have identified to the character and appearance of the area would be significant. In the context of paragraph 11(d) of the Framework, and even if I were to take the suggested affordable housing provision at face value, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development set out at paragraph 11(d), and the conflict with the development plan when read as a whole is not outweighed by other considerations including the Framework.

Other Matters

26. I have carefully considered comments made by interested parties which refer to matters such as the impact of development on neighbouring occupiers, ground conditions and drainage; the capacity of local services; traffic, congestion, the provision of parking and access arrangements for the site; and the potential for damage to or loss of trees including those outside of the appeal site. However, none of these are matters that alter my findings on the main issues in this appeal. I also note references to restrictive covenants, but that is a separate matter and does not affect my conclusions on the planning merits of the proposal.

27. Representations from interested parties included a Technical Note on highway matters prepared by Focus Transport Planning. At final comments stage of the appeal, the Council and appellant each provided evidence responding to this. In light of the reactive nature of these responses and published guidance on the

acceptance of new evidence[2], I am satisfied that it would not have been possible for this information to be submitted at an earlier stage. Even so, I am mindful that interested parties may not be aware of the new material, and there has been no consultation on it. Nevertheless, as the material in question is not central to the main issue in the appeal and could not alter my overall conclusion, it has not been necessary for me to consider this further as part of my decision.

28. The appellant has drawn my attention to a proposed development near to the site which is being considered by the Council under planning application reference 2019/3119. I do not have full details of this application which I understand is currently pending, and I have in any case determined the appeal on its own merits.

29. I acknowledge that the appellant engaged in pre application discussions with the Council which resulted in revisions to the development proposed, and that the application was recommended for approval by Council officers and the East Area Town Planning Sub-Committee. However, I must come to my own view on the basis of the evidence before me, and these are not matters which lead me to alter my findings on the main issue.

Conclusion

30. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR

[2] Annexe B of the Planning Inspectorate 'Procedural Guide – Planning Appeals – England'