



Appeal Decision

Site visit made on 4 February 2020

by Mr D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 22 April 2020

Appeal Ref: APP/K3605/W/19/3240173 Wessex, South Road, Weybridge KT13 9DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant technical details consent.
 - The appeal is made by South Road Property Developments Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2019/0657, dated 1 March 2019, sought consent pursuant to permission in principle Ref 2018/3023, granted on 12 November 2018.
 - The application was refused by notice dated 12 September 2019.
 - The development proposed is the demolition of the existing building and erection of 9 flats and associated works.
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Decision

1. The appeal is allowed and technical details consent is granted for the demolition of the existing building and erection of 9 flats and associated works at Wessex, South Road, Weybridge, KT13 9DZ in accordance with the terms of the application, 2019/0657, dated 1 March 2019 subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Simon Bishop (South Road Property Developments Limited) against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. The decision notice includes 2 reasons for refusal. The Council have indicated that they no longer wish to defend their first reason relating to housing standards. As such, this appeal will focus on the second reason for refusal relating to the impact on local highway conditions.
4. It has been drawn to my attention that a further application for technical details consent for similar development was refused by the Council following the submission of this appeal. As it is a separate application, that decision has limited bearing on the conclusions I reach in this appeal.
5. The appeal site is located within the buffer zone of the Thames Basin Heaths Special Protection Area (SPA). Although not forming part of the Council's reasons for refusal, it is incumbent on me as the competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA. As such, it is necessary for me to consider this matter as a main issue.

Main issues

6. The main issues are:

- The effect of the proposed development on local highway conditions, particularly in terms of safety, parking and access, and the implications for occupiers of nearby residential properties.
- The effect of the proposed development on the Thames Basin Heaths SPA.

Reasons

Highway matters

7. The appeal site is located close to where South Road meets the rear of properties on the Queens Road shopping parade. The character of South Road becomes more residential in nature as you move away from Queens Road.
8. The site is situated in an accessible location with easy access to public transport in the form of bus routes. A number of day to day amenities are also within walking distance. On street parking on South Road is controlled by the use of residents parking permits. Notwithstanding the accessible location and parking controls, the area around the appeal site appears to experience a degree of highway stress. South Road is narrow in places and, due to the limited width and presence of yellow lines and on street parking, it only allows one car to pass at a time.
9. It is submitted that provision could be made to exclude future occupiers of the flats from benefiting from residents parking permits. This would be achieved through amendment to the Controlled Parking Zone (CPZ) Order, with submission of proof that the Order has been amended being a condition of Consent.
10. I have considered evidence, including comments from third parties, about whether the permit free arrangement would be effective in terms of managing parking pressure resulting from the development. This includes whether future occupiers would choose to park their cars on surrounding roads outside of the CPZ, leading to parking pressure on these streets. I note that a range of highway control measures are in operation, in addition to the CPZ, that limit parking availability in the surrounding area. However, some unrestricted parking is available close to the site, including on the nearby Prince's Road and York Road.
11. Notwithstanding this, I do not consider the opportunities for unrestricted parking to be extensive. As such, the parking restrictions in the area (including the CPZ) in combination with the accessibility of the location and the smaller dwelling types proposed, would serve to reduce the likelihood that many occupiers of the proposed development would choose to own a car notwithstanding the permit free arrangement proposed. Highway pressure resulting from the vehicles of future occupants of the dwellings could therefore be adequately managed, subject to provision being made to exclude future occupants from benefiting from residents parking permits.

12. Given the lack of on site parking provided it is likely that parking or waiting linked to delivery and service vehicles would need to take place on street. As the highway immediately adjacent to the appeal site is narrow, turning would need to take place further down South Road where it opens up a little more. These assumptions are confirmed by the tracking diagram submitted in the appellant's Highways and Transportation Assessment dated October 2019.
13. I note that delivery and servicing at the appeal site already takes place as a result of the existing detached single dwelling. The existing dwelling has off street parking, however this is narrow and therefore unlikely to easily accommodate larger vehicles. As such, I conclude that parking and turning linked to delivery and servicing of the existing dwelling is already likely to take place on street. The question is therefore whether there would be a harmful intensification as a result of replacing a larger detached dwelling with 9 apartments.
14. I accept the observation from the appellant that the proposed development would not lead to additional refuse collection visits on top of what already occurs in connection with the existing dwelling. I also note the analysis in the Highways and Transportation Assessment that concludes that the proposed development is likely to generate an average of 1 light goods vehicle delivery per day and a smaller average number of deliveries from other goods vehicles.
15. In addition, the existing detached dwelling has off street parking and may also be able to benefit from a residents parking permit. As such, extra movements related to servicing and deliveries would be offset at least in part by reduced vehicle movements from future occupiers of the proposed development being unable to benefit from residents parking permits.
16. Despite the acknowledged highway stress on South Road I find that, based on the evidence presented and the likely existing movements linked to the detached dwelling currently on site, the frequency and arrangements for service and delivery vehicles does not represent an intensification in vehicle movements.
17. It is acknowledged that the condition of the footway on South Road is variable and may encourage pedestrian users to cross the road in places. However, the likely vehicle movements generated by the proposed development are such that it would not have a harmful impact on users of the footway in terms of highway safety.
18. For the reasons set out above I find that the proposed development would be acceptable in terms of its impact on local highway conditions, including safety, parking and access, and implications for occupiers of nearby residential properties.
19. Consequently, I do not find conflict with policy DM7(a) of the Elmbridge Development Management Plan (2015) which seeks to ensure that provision is made for access and to minimise the impact of vehicle and traffic nuisance.

Thames Basin Heaths SPA

20. The appeal site is located within the buffer zone of the Thames Basin Heaths SPA. The SPA is protected as a European Site and is therefore subject to statutory protection under the Conservation of Habitats and Species Regulations 2017.
21. The SPA is an internationally important habitat for rare species of ground nesting birds – including the nightjar, woodlark, and Dartford warbler – and is acknowledged as being subject to high development pressures. In relation to the proposed development, urbanisation and recreational pressure are particular potential adverse effects which could impact the SPA significantly in combination with other plans or projects in the area.
22. As such, as the competent authority in this instance it is necessary for me to carry out an appropriate assessment as part of my decision. I note that the Thames Basin Heaths SPA Delivery Framework (the Delivery Framework) sets out a strategic approach to considering potential adverse effects based on zones relating to proximity of sites to the SPA. The site does not fall within 400m of the SPA perimeter and, as such, it is not within the zone where there is a presumption against development.
23. As the site falls within the zone of influence between 400m and 5km from the SPA, the Delivery Framework indicates that it should be subject to avoidance and mitigation measures designed to mitigate the impact of additional residential occupancy resulting from the proposed development on the SPA. As such, the appellant and the Council have agreed a financial contribution towards Strategic Access Monitoring and Management. This contribution would be in line with guidance in the Elmbridge Developer Contributions Supplementary Planning Document (SPD) which is linked to policy CS13 of the Elmbridge Core Strategy and the approach taken in the Delivery Framework. According to the SPD the contribution would be used to manage recreational pressures on the SPA itself.
24. The sum of the contribution is undisputed by the Council and the appellant and is based on the method set out in the SPD. A planning obligation under S106 Town and Country Planning Act 1990 in the form of a Unilateral Undertaking has been provided by the appellant in order to secure delivery of the contribution, which I find satisfactory. The need for this obligation meets the tests set out in paragraph 56 of the National Planning Policy Framework (the Framework) as it is necessary to make the proposed development acceptable in planning terms.
25. Beyond urbanisation and recreational pressures, I have also considered other potential impacts on the SPA, including noise, atmospheric pollution, and light disturbance. On these matters I do not find evidence of potential adverse effects on the SPA.
26. In carrying out this assessment I have also had regard to the Council's own appropriate assessment. This assessment was subject to consultation with Natural England, who raised no objections provided the appropriate avoidance and mitigation measures discussed above are secured.

27. For the above reasons, I am satisfied that specific measures would be in place to address the potential adverse effects on the SPA. Consequently, I find no conflict with policy CS13 of the Elmbridge Core Strategy and the accompanying SPD.

Other matters

28. Representations from other parties in response to the original application and this appeal are noted. Some of the representations support the Council's reasons for refusal and are discussed above. Some of the other matters raised are addressed below, but do not effect my conclusions on the main issues.
29. In relation to loss of family sized accommodation, as the proposal has already been subject to a grant of permission in principle it is not possible to question whether the principle of the development is acceptable at this technical detail consent stage.
30. It is noted that the proposed development does not include the provision of affordable housing. In this case the Council indicates that they accept the findings of a viability appraisal prepared by the appellant demonstrating that an affordable housing requirement could not be met. I have no detailed evidence before me to dispute this appraisal or the judgement of the Council that affordable housing cannot be provided.
31. Regarding the effect on the character and appearance of the area, it is acknowledged that the proposed building would be larger than the existing dwelling. It would also have a more contemporary appearance, in particular due to the flat roof and window details. As this is a prominent site the development would change the appearance of the immediate locality. Notwithstanding this, the character of this part of South Road is derived from both the larger scale properties closer to Queens Road and the more modest buildings that are evident as you move away from it. In this regard, the character of the immediate area is mixed and a building of the scale and appearance proposed would not therefore be out of character.
32. A condition requiring agreement of materials to be used on the external faces of the building and roof will further ensure that the appearance of the building is consistent with the surroundings. As such, and considering all other comments relating to design, I conclude that the proposed development would not have a harmful effect on the character and appearance of the area.
33. I have considered the impact on living conditions of occupiers of properties nearby. I note the appellant's Daylight and Sunlight Assessment Report dated 4 March 2019 which assesses the impact on the existing windows of South Lodge (as the nearest property) and the surrounding gardens, including South Lodge and 1 and 3 High Pine Close. The assessment confirms that, whilst there would be some loss of light, the impact on these features and spaces would fall within the relevant industry guidelines. In light of this assessment and the other evidence submitted, and taking account also of the separation distances involved, I find the impact to be acceptable.

34. In terms of impact on privacy conditions, some of the upper floor windows in the proposed development would overlook the garden and windows in South Lodge. However, the relevant windows in the new building would serve secondary spaces and non habitable rooms. I also note that the appellant has signalled an acceptance that the windows can be constructed of obscure glazing, which can be the subject of a condition. I find this to be satisfactory in terms of preserving the privacy conditions of occupiers of South Lodge.
35. The east elevation of the proposed development would include windows/Juliet balconies facing towards the rear of properties on High Pine Close. Given the separation distances and other built forms nearby, it is considered that the proposed development would not impact on the privacy conditions of occupiers of these and other properties nearby.
36. Retention of or suitable replacement for existing border planting can be the subject of a condition and would further ensure that privacy conditions are maintained for neighbouring properties and can be secured by condition.
37. The proposed development would include some outdoor amenity space at roof level. This has been designed to ensure that it does not create significant new views into neighbouring properties. A condition can be used to prevent use of the rest of the roof area as an amenity space which would also be beneficial in terms of preserving privacy conditions.
38. Given the size of the roof level amenity space and its location, I am also satisfied that it would not create an impact in terms of noise above and beyond what might be expected in a small residential garden and that the proposed development would be otherwise acceptable in terms of noise impact. Noise and other impacts resulting from construction works would be adequately controlled by the Construction Management Plan that can be the subject of a condition, in so far as it is appropriate to control such matters using the planning system rather than other regulatory regimes.
39. In relation to impacts on local wildlife, an Ecological Appraisal was submitted with the planning application that sets out a range of mitigation measures. Given the importance of ensuring satisfactory mitigation for local wildlife, I have included a condition to require submission and approval of a more detailed action plan. With this condition in place I am satisfied the proposed development would be acceptable in relation to its impact on local wildlife. Similarly, hard and soft landscaping can be controlled by condition to assist with biodiversity and also drainage.
40. Comments relating to the processing of the planning application are also noted, including the date of consultation and location of the site notice. These, and other application process matters, are best addressed to the Council rather than being considered as part of an appeal.

Conditions

41. The Council have requested that a number of conditions are imposed on any planning permission given. I shall address these below by reference to the numbers set out in the attached schedule.

42. The three year period in which the planning permission may be implemented (1) is a statutory requirement but I have amended the Councils suggested date to refer to the date of this decision as that is the relevant date of the grant of planning permission. I also consider that it is necessary in the interests of clarity to specify the plans that are approved (2).
43. I am satisfied that a condition requiring submission and approval of details of materials to be used on the external faces and roof of the building is appropriate (3) in the interests of ensuring a satisfactory standard of external appearance. However, I judge that requiring the submission of samples of materials is unlikely to be necessary for all materials. As such, I have amended the condition to remove reference to samples.
44. Given the proximity to neighbouring properties, and concerns raised by third parties about loss of privacy, conditions requiring obscured glazing at first and second floor levels in the north elevation (4) of the building and limiting the use of part of the roof area as an amenity space (11) are necessary in the interests of preserving privacy conditions.
45. In relation to highway aspects, condition (5) provides a mechanism to ensure that future occupiers of the flats are excluded from benefiting from residents parking permits. Compliance with part of the condition would require submission of proof that the Controlled Parking Zone Order has been amended by the County Council prior to above ground works beginning. Evidence confirms that the County Council have indicated a willingness to amend the Order. As such, there is a reasonable prospect that the condition could be fulfilled within the time limit imposed by the permission. I am also satisfied that, given the degree of highway stress on South Road and comments raised by third parties, such a requirement is necessary and otherwise meets the tests for use of conditions set out in Paragraph 55 of the Framework.
46. I have included a condition relating to compliance with the Construction Transport Management Plan (10) submitted with the appeal in the interests of minimising the impact of the proposed development on the highway.
47. I am satisfied that a condition (6) relating to landscaping, including timing and replacement, is necessary in the interests of preserving and enhancing the character of the area and also responding to third party comments relating to privacy. Notwithstanding the landscaping plan submitted with the application, further details are required to provide certainty in particular about what planting is to be retained and to ensure satisfactory replacement where needed.
48. I am also satisfied that conditions relating to bin storage (7) and cycle parking (8) are necessary to preserve the amenity of the area and promote sustainable travel, responding also to comments from third parties.
49. A condition was suggested requiring compliance with the mitigation measures set out in the Ecological Appraisal submitted with the planning application. Given the contents of the appraisal, and the importance of ensuring satisfactory mitigation for local wildlife, I have amended this condition (9) to require submission and approval of a more detailed action plan to set out how the mitigation will be carried out. In order to ensure that these measures are in place upfront if needed, it is necessary for this to be a pre-commencement condition, which the appellant has agreed to.

50. A further condition is suggested by the Council requiring the appellant to apply for a Designing Out Crime Award. I have no evidence relating to the need for this requirement, other than to note that the Surrey Police mention the awards in their response. There is limited evidence presented about what the requirement to apply for a Designing Out Crime Award would involve, how onerous a requirement this would be for the appellant, and why it is necessary. I therefore find that this condition is unnecessary and imprecise and have not included it. The appellant is of course free to apply for such an Award if they wish to do so.

Conclusion

51. For the above reasons the appeal is allowed.

D.R. McCreery

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 strict accordance with the following list of approved plans: Location Plan, WSR/1/09, WSR/1/14 and WSR/1/16 and WSR/1/05 Rev A, WSR/1/06 Rev A, WSR/1/07 Rev A, WSR/1/11 Rev A, WSR/1/12 Rev A and WSR/1/13 Rev A.
3. No above ground works shall take place until details of the materials to be used on the external faces and roof of the building have been submitted to and approved in writing by the Borough Council. Development shall be carried out in accordance with the approved details.
4. Prior to the first occupation of the development hereby permitted the first and second floor windows on the northern side elevation of the development hereby permitted shall be glazed with obscure glass 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.
5. No above ground works shall take place until arrangements have been made to secure the development as a car-free development in accordance with a detailed scheme which shall have been submitted to and approved in writing by the Borough Council. The approved scheme shall ensure that:
 - i) following variations to the Surrey County Council Weybridge Controlled Parking Zone in the Borough of Elmbridge (Consolidation of Waiting Restrictions and On Street Parking Places) Order 2014; or any Order revoking or re-enacting the Order; occupants / prospective occupants (not being holders of a disabled persons badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation) of the development are excluded from entitlement to a resident's parking permit;
 - ii) any occupiers of the approved development shall surrender any such permit wrongly issued or held;
 - iii) measures are in place to communicate this requirement to future occupants of the proposed development, including their successors in title and any persons occupying the premises as a tenant or licensee.

Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.

6. No above ground works shall take place until details of hard and soft landscaping, including details of existing planting to be retained, have been submitted to and approved in writing by the Borough Council. Arboricultural work to existing trees shall be carried out prior to the commencement of any other development, otherwise all remaining landscaping work and new planting shall be carried out prior to the occupation of any part of the development or in accordance to the timetable agreed with the Borough Council. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species, following consultation with the Borough Council, unless the Borough Council gives written consent to any variation.
 7. The development hereby approved shall not be first occupied until space has been laid out in accordance with the approved plans for the storage of refuse within the development site. The storage facilities shall thereafter be retained and maintained to the satisfaction of the Borough Council.
 8. The development hereby approved shall not be first occupied until the following facilities have been provided in accordance with the approved plans:
 - (a) the secure, covered and lit parking of bicycles within the development site,
 - (b) Facilities within the development site for cyclists to store cycling equipment,
 - (c) Information to be provided to residents and visitors regarding the availability and whereabouts of local public transport, walking routes, cycling routes, car sharing clubs and car clubs
- Thereafter the approved facilities shall be provided, retained and maintained to the satisfaction of the Borough Council.
9. No development shall take place until an action plan setting out how the mitigation, compensation and enhancement recommendations in Section 5 of the Preliminary Ecological Appraisal dated 20th February 2019 will be carried out has been agreed in writing by the Borough Council. The action plan shall be carried out as agreed with the Borough Council and the measures put in place shall be retained as such thereafter.
 10. The development shall be carried out in accordance with the Construction Management Plan at Appendix 12 in the appellant's statement of case to this appeal, unless written variation is first agreed with the Borough Council.
 11. With the exception of the area identified on drawing WSR/1/07rev A as a 'roof terrace' the roof area of the building hereby permitted shall not be used as a terrace, roof garden or similar amenity area unless otherwise agreed in writing by the Borough Council.