
Appeal Decision

Site visit made on 30 June 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 21ST July 2020

Appeal Ref: APP/K3605/W/19/3241828
45 More Lane, Esher KT10 8AP

- 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 Ian Sloan (B&M Care) against the decision of Elmbridge Borough Council.
 - The application Ref 2019/0215, dated 18 January 2019, was refused by notice dated 11 September 2019.
 - The development proposed is erection of care home for the elderly (Use Class C2) including access, parking, amenity, landscaping and tree retention.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. During the application process the proposal was amended from a 51-bed care home to a 46-bed scheme and it was this smaller scheme that the Council determined. I have therefore considered the appeal on that basis.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area and the living conditions of neighbouring properties, with particular regard to Stowell House, in respect of outlook and light.

Reasons

Character and appearance

4. The appeal site is a vacant plot on More Lane, surrounded by hedges and trees. Opposite the site is Sandown Racecourse, and to the rear are the playing fields of a school. This part of More Lane contains several large, detached houses and more recent developments of apartment blocks with gated road access to further residential development at the rear. The blocks fronting More Lane are designed as 2.5 storey buildings, providing 2 full floors of accommodation and additional rooms in the roof space, while those at the rear vary between 2 and 2.5 storeys.
5. In comparison, the proposal would have a three-storey front block which, despite the falling ground levels, would be a similar height to the neighbouring block at Spinney Gardens. The Council's Elmbridge Design and Character Supplementary Planning Document (2012) (SPD) highlights that massing will

play a large part in determining the character of a building and its appropriateness. On the front elevation, the width and shallow pitch of the projecting gables and the number and size of windows and balconies proposed, would emphasise the scale of the building and give it a strong horizontal emphasis, in contrast to the more vertical forms of neighbouring properties.

6. Consequently, while it would have a similar width and footprint, overall the proposed front block would appear significantly larger in scale and massing than neighbouring buildings. Therefore, although it would be set well away from the front and side boundaries, it would be a dominant and prominent feature in the street scene. The impact of the front block would not be ameliorated by the use of similar materials to those in the surrounding area. Nor has it been demonstrated that the impact could be mitigated by landscaping, given the very limited space available for planting at the front of the site. Accordingly, the proposed front block would significantly harm the character and appearance of the area.
7. The proposed 2.5 storey rear block would be significantly narrower and somewhat lower than the front block, and set well in from the side boundaries. Although wider than neighbouring properties, it would be of similar height, proportions and design. As such, it would reflect the prevailing pattern of development along the rear row of properties. The single storey link building proposed, due to its low height and central position within the site, would be largely screened from any public view. Consequently, these parts of the proposal would preserve the character and appearance of the area. However, this would not outweigh the harm that I have identified from the front block.
8. Accordingly, the proposal would significantly harm the character and appearance of the area and would therefore conflict with Policy DM2 of the Elmbridge Local Plan Development Management Plan 2015 (DMP) and Policies CS9 and CS17 of the Elmbridge Core Strategy 2011 (CS) which together require high quality design that enhances local character. It would also conflict with the guidance in the Design and Character SPD on massing. Furthermore, the proposal would conflict with the National Planning Policy Framework (the Framework) which requires development to add to the overall quality of the area and be sympathetic to local character.
9. I recognise that the proposal attempts to address the concerns of the Inspector from a previous appeal¹, that it was developed in negotiation with Council officers, and that it is considerably reduced in width and depth compared to the previous scheme. However, the 3-storey front block is materially different in appearance to the 2.5 storey block considered previously and, having considered the proposal on its own merits, I have identified that this revised scheme would harm the character and appearance of the area.

Living conditions

10. Stowell House has several ground floor side windows serving a dining room and lounge and a first floor side window serving a bathroom. These face towards a tall, mature hedge containing several trees, which limits the outlook from these windows and which is proposed to be retained. The proposed rear block would be around 11 metres from the windows. Consequently, although the proposed rear block would be seen from the side windows, given the separation distance

¹ APP/K3605/W/18/3218515

and the intervening vegetation it would not appear overbearing or significantly adversely affect the outlook from them.

11. The SPD sets out various rules of thumb to assess potential impacts on daylight and sunlight levels. The proposal would breach the 25 degree plane from the ground floor side windows of Stowell House, which triggers the need for a more detailed assessment of impacts on daylight and sunlight. As a result, the appellant has submitted a Daylight and Sunlight Impact Assessment, based on BRE guidance², which concludes that there would be a negligible reduction in daylight and sunlight to the lounge and dining room of Stowell House. Although it contains some small errors in relation to window locations and numbers, these have largely been corrected by a Technical Design Note submitted during the appeal. I saw on site that the location of the windows as built was slightly different to the approved plans on which the assessment was based, but not to the extent that it would be likely to significantly alter the outcome of the assessment. Although the Council takes a different view on the overall impact of the proposal it does not appear to dispute the methodology or conclusions of the assessment.
12. I have had regard to the totality of the evidence on daylight and sunlight before me, along with the findings from my site visit. I saw that the height and proximity of the existing hedge and trees mean that they are likely to affect the amount of daylight and sunlight reaching the side windows of Stowell House. Although the proposed rear block would be slightly taller than Stowell House and on higher ground, it would be set well away from the boundary. Therefore, with the boundary vegetation retained, the rear block would not significantly adversely affect the amount or quality of daylight or sunlight reaching the side windows of that property.
13. The double garage of Stowell House already significantly impacts on the light and outlook reaching the front window of the dining room. As such, although the proposed rear block would be set somewhat forward of Stowell House, given the separation distance it would not materially worsen that situation. The rear block would be broadly in line with the rear of Stowell House and as such would not adversely impact on light or outlook to the rear window, patio or balcony of that dwelling.
14. While the proposed rear block is the same height as the previous appeal scheme, it would be approximately 8m further from Stowell House and set further forward, such that the separation distance between the two properties would be significantly greater than was before the previous Inspector. This scheme would therefore have a materially different relationship with Stowell House, and the changes are sufficient to overcome the adverse impacts previously identified.
15. Due to the separation distances and the relationship with Glenwood House and Nos 3 and 5 Spinney Gardens, the proposal would not have an unacceptable effect on the living conditions of the occupiers of those properties.
16. Accordingly, the proposal would not significantly adversely affect the living conditions of neighbouring properties, in particular Stowell House, in respect of outlook or light. Therefore, it would not conflict with DMP Policy DM2 or CS Policy CS17, insofar as they require that development protect the amenity of

² BR209 Site Layout Planning for Daylight and Sunlight 2011

adjoining occupiers, or with the SPD. Nor would it conflict with the Framework requirement to provide a high standard of amenity for existing users.

Planning Balance and Conclusion

17. CS Policy CS20 supports development of specialist accommodation for older people in suitable locations. The Framework identifies the need to provide housing for different groups in the community, including older people. The appellant states that the proposal would provide a high quality of accommodation for residents which would meet Care Quality Commission standards. The scheme proposes 46 beds overall, including both personal and nursing care, including specialist dementia care. Although I note that the Council considered the proposal as extra care provision, there is no evidence before me that any extra care is proposed.
18. Surrey County Council (SCC) has produced a commissioning statement³, which sets out a strategic direction to implement a range of measures so people are able to live in their own homes for longer, increase extra care provision, and to shift away from residential and nursing care as default models of care. The appellant has submitted a needs assessment⁴, which identifies a current and growing need for both personal and nursing care beds, and in particular dementia care. It is however now three years old and does not reflect the outcome of SCC's revised approach to care provision. In comparison, SCC forecasts negative demand for residential care in Elmbridge by 2025. Consequently, in the absence of a demonstrable need for such provision, the proposal to provide personal non-specialist care beds carries only limited weight.
19. Nevertheless, the information from both the appellant and SCC indicates an ongoing need for nursing care beds, including dementia care. I am also mindful that the Planning Practice Guidance (PPG) sets out that there should be a range of housing options and tenures available to people with dementia. Therefore, such provision would weigh in favour of the proposal. However, the appellant has not specified how many nursing and/or dementia care beds would be provided. I appreciate that the number of such beds might fluctuate over time depending on demand, however the appellant has not indicated even a minimum number to be provided. Therefore, I cannot word a planning condition so as to be precise or reasonable, and there is no other mechanism before me to secure such provision. Therefore, I cannot be sure of the extent to which the proposal would contribute to meeting the identified need, and can therefore afford this potential benefit only limited weight.
20. The PPG sets out that authorities will need to count housing provided for older people against their housing requirement, and that residential institutions may release housing onto the market⁵. While any release of housing would contribute to housing supply, there is no substantive evidence before me that the Council cannot currently demonstrate a Framework compliant housing land supply, and as such this carries limited weight.
21. The proposal would provide specialist housing in a largely residential area, and would contribute to the mix of housing provision and therefore have social

³ Commissioning Statement: Accommodation with care, residential & nursing care for older people, Elmbridge Borough Council, April 2019 onwards

⁴ Carterwood report: Comprehensive planning need assessment for B&M Care Limited (July 2017)

⁵ Paragraph: 016a Reference ID: 63-016a-20190626

benefits, while construction and operation of the proposal would result in economic benefits and employment. Given the scale of development proposed however, such benefits would be limited.

22. The appeal site is relatively close to a range of services and facilities in the town centre, has good public transport links, and would make efficient use of previously developed land, all of which are encouraged by national and local planning policies. It would not however achieve high quality design, which the Framework sets out is fundamental to what the planning and development process should achieve.
23. The proposal would provide sufficient parking to meet the needs of staff, residents and visitors, and would offer good internal and outside space for future residents. It could be constructed without undue adverse impacts on trees, and there is space for landscaping and drainage. These are however of neutral consequence in the planning balance.
24. I have found that the proposal would harm the character and appearance of the area. Given the importance of design in national and local policies I afford the conflict with those policies substantial weight. While I have found that there would be no significant adverse impact on the living conditions of neighbouring occupiers, this does not outweigh the significant harm that I have identified in character and appearance terms.
25. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR