
Appeal Decision

Site visit made on 23 March 2021

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/K3605/W/20/3259842

4 Fairmile Lane, Cobham, KT11 2DJ

- 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 J Sorrentino for Lightwood Planning Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2020/1086, dated 7 May 2020, was refused by notice dated 18 September 2020.
 - The development proposed is the erection of 5 x two storey dwellings with rooms in the roof and associated access and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A Unilateral Undertaking (UU) has been submitted which includes mechanisms to contribute towards mitigation to the effects of the development on the Thames Basin Heath Special Protection Area (TBHSPA) and to contribute towards affordable housing. I will return to these matters later in this decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, and
 - The effect of the proposed development on the living conditions of occupiers of nearby dwellings, with particular reference to privacy.

Reasons

Character and appearance

4. The appeal site is located within an area that is overwhelmingly characterised by large, detached dwellings that are located within spacious landscaped plots. There are examples in the immediate area of backland forms of development although these appear to mainly comprise of similarly large detached dwellings.
5. A previous application¹ on the site for two large detached dwellings was refused by the Council in February 2020. The sole reason for refusal related to the

¹ LPA Ref. 2019/2553

density of the proposal, and more specifically, that the proposal did not make the most efficient use of land. An appeal² was subsequently lodged and has recently been allowed.

6. The current appeal proposal is for a pair of semi-detached houses and a terrace comprising of 3 no. dwellings. The proposed dwellings are all three bedroom dwellings and are two storey, with rooms in the roof.
7. The appellant explains that the proposal was submitted to overcome the refusal reason associated with application ref. 2019/2553. Accordingly, the proposal would provide for additional units and would broadly meet the density target of 30 dwellings per hectare, set out in Policy CS17 of the Elmbridge Core Strategy (2011) (CS).
8. The proposal would also deliver three-bedroom dwellings, as encouraged under Policy CS19 of the CS. This policy seeks to promote a mix of housing types and sizes across the Borough and resist an overconcentration of one type of dwelling if this is considered to have the potential to adversely affect community cohesion. Supporting text confirms that the recent supply of new homes has predominantly been in the form of flats and larger houses and as a result, 90% of new housing development should ideally deliver 1, 2 and 3-bedroom dwellings.
9. However, Policy CS17 of the CS also requires new development to deliver high quality and inclusive sustainable design which maximises the efficient use of urban land whilst responding to the positive features of individual locations, integrating sensitively with the locally distinctive townscape. Policy CS10 applies specifically to Cobham, Oxshott, Stoke D'Abernon and Downside. Whilst it encourages the provision of smaller units, it also requires that new development is well designed and integrates with and enhances local character.
10. In addition, Policy DM2 of the Development Management Plan (DMP) also requires amongst other matters, all new development to be high quality design. Policy DM10 of the DMP states that the development of garden land will be appropriate provided that the scheme as a whole has been well designed to respect the character of the area (among other matters). Further design guidance is provided within the Supplementary Planning Document on Design and Character (2012) (the SPD) and the relevant Companion Guide.
11. Following the appeal decision referred to above, the principle of development behind the frontage dwelling, has clearly been established. However, the current appeal proposal is for a different form of development to the earlier appeal proposal, comprising of semi-detached and terrace dwellings, a form of development that is not widely displayed in the area. The dwellings would be sited in plots that are significantly narrower and smaller than those prevailing in the surrounding area and accordingly, the proposal would have a significantly more urban and intensive character. Having regard to the spacious qualities and the character and appearance of the area, I find that the proposal would be significantly at odds with the existing pattern of development.
12. Furthermore, the proposed parking arrangement in the form of a parking courtyard to the front of the dwellings would be a highly urbanising and incongruous feature and with little space for softening, deviates significantly

² Appeal Ref. APP/K3605/W/20/3246998

from the character of the area. This would be in sharp contrast to the spacious residential gardens that surround the site. Overall, the proposal would not integrate sensitively with the locally distinctive townscape and would not enhance local character.

13. The appellant has provided a comparison between the built form of the two dwelling scheme and the current proposal, and this confirms that whilst the schemes are different, overall the footprint and gross internal area of the current scheme would be less. However, this does not lessen my concerns regarding the form and intensity of development, including the proposed parking arrangement and its effect of the character and appearance of the surrounding area.
14. For the above reasons, I find that the proposal would have a harmful effect on the character and appearance of the area. Accordingly, it would be contrary to Policies CS10 and CS17 of the CS and Policies DM2 and DM10 of the DMP, which collectively require development to be of a high quality and to integrate with and enhance local character. The proposal would also fail to comply with advice contained within the SPD which also seeks to secure high quality development in the Borough that respects local character. The proposal would also conflict with the National Planning Policy Framework (the Framework) insofar as it requires a high standard of design.

Living conditions

15. The proposed dwellings would be visible from the rear garden and habitable room windows of neighbouring dwellings.
16. The Council has raised particular concern regarding the effect of the proposal on the living conditions of the occupiers of dwellings in Knowle Park, to the rear of the site. The closest of these dwelling is 20 Knowle Park which is located at an oblique angle to the rear elevation of the proposed dwellings.
17. The proposed dwellings would all have accommodation within their roof, served by rear dormer windows. The dwellings would have a rear garden depth of at least 15 metres and the separation distances between the windows of the appeal proposal and the dwellings in Knowle Park are in my view sufficient to ensure that no material overlooking or other significant harm would occur to the living conditions of the occupiers. Views into neighbouring gardens would also be filtered by existing boundary features which I acknowledge could be further supplemented to provide additional mitigation in the event that the appeal were to succeed.
18. The new buildings would be located between 1.3 - 1.5m away from the side boundaries of the site, beyond which are Nos 2 and 6 Fairmile Lane. The separation distances that would be achieved between the front elevation of the proposed dwellings and the rear elevation of Nos 2 and 6 would be sufficient to ensure that the living conditions of the occupiers of these dwellings would not be materially affected through either loss of outlook or privacy. The visual impact of the dwellings would also be further softened by both existing and proposed planting.
19. I am therefore satisfied that the proposal would not have a harmful effect on the living conditions of the occupiers of neighbouring dwellings, with particular reference to privacy. The proposal would therefore comply with Policy CS17 of

the CS and Policy DM2(e) of the DMP insofar as they seek to protect the amenity of adjoining occupiers.

Other Matters

20. The appellant has supplied a signed copy of a Unilateral Undertaking concerning payments to provide mitigation to the nearby Thames Basin Heaths Special Protection Area. The S106 Agreement also makes provision for an affordable housing contribution of one unit. As the appeal is being dismissed on other substantive issues, it is not necessary for me to look at these in detail. Nevertheless, I have taken the proposed contribution of an affordable housing unit into account in my overall planning balance.
21. The main parties concur that the Council cannot meet its five-year supply of deliverable housing. As such, the relevant policies for the supply of housing should not be considered up to date. I shall address the implications of this for the approach to decision making in the planning balance.

Planning balance and conclusion

22. Paragraph 11 of the Framework explains how the presumption in favour of sustainable development applies. As the Council cannot demonstrate a 5-year supply of housing land, in line with paragraph 11d) of the Framework, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
23. The Framework refers to boosting significantly the supply of housing, the net increase of five additional units including one affordable unit, would make a meaningful contribution and in providing smaller units, would respond to an identifiable local need. This is a matter that I afford significant weight. Furthermore, in respect of economic benefits, I acknowledge that future residents of the development would make use of local services and spend in local shops. However, as the scheme is for five dwellings, the impact of this additional spend in the local economy would be limited. The scheme would also result in direct and indirect employment and create a demand for building supplies during the construction phase. Due to the short-term nature of these benefits, I give them only limited weight.
24. I have concluded that the proposal would not be harmful to the living conditions of the occupiers of adjacent dwellings. The lack of harm in this respect does not weigh in favour of the scheme, rather the impact is neutral.
25. In terms of adverse impacts, I have found that the appeal scheme would cause significant harm to the character and appearance of the area. It would therefore conflict with Policies CS10 and CS17 of the CS and Policies DM2 and DM10 of the DMP. I attribute significant weight to this policy conflict.
26. Bringing all together in the final balance, I consider that the harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework

when taken as a whole. Furthermore, no material considerations indicate that a decision should be made other than in accordance with the development plan.

27. For the above reasons, the appeal is dismissed.

J Davis

INSPECTOR