
Appeal Decision

Site visit made on 26 April 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 May 2021

Appeal Ref: APP/K3605/W/20/3259051

Land northeast of 15 Courtlands Avenue, Esher KT10 9HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Graeme Bern against the decision of Elmbridge Borough Council.
 - The application Ref 2019/3228, dated 14 November 2019, was refused by notice dated 21 July 2020.
 - The development proposed is construction of a new four bedroom dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for construction of a new four bedroom dwelling house, at Land northeast of 15 Courtlands Avenue, Esher KT10 9HZ, in accordance with the terms of the application, Ref 2019/3228, dated 14 November 2019, subject to the following 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 accordance with the following approved plans: CA/15/20 Rev B; CA/15/21 Rev A; CA/15/22 Rev A.
 - 3) Prior to the first occupation of the dwelling hereby permitted:
 - a) a fast charge socket of minimum specification, 7 kw Mode 3 with Type 2 connector, 230v AC 32 Amp single phase dedicated supply; and
 - b) a store providing a minimum of 2 secure spaces for the storage of bicycles,shall be installed within locations, and, in relation to the store, be of a design, that have/has first been submitted to and approved in writing by the local planning authority.

Procedural Matters

2. The description of development in both the banner heading, and in my decision above, are edited versions of that provided on the application form. In this regard I have omitted reference to the site address and to pre-application advice, as neither are descriptions of development.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. Courtlands Avenue is a private cul-de-sac of 'L' shaped layout. Access is from the top of the longest of the 2 limbs, which also forms the route of a public footpath. Mini roundabouts are located both at the turn of the cul-de-sac and at its end. Within this context, this site has been created by severance of the plot on which 15 Courtlands Avenue stands. It is located just off the first roundabout, and the footpath runs alongside. As such the plot occupies a reasonably prominent position within the established layout.
5. Plots within Courtlands Avenue are generally spacious, but of varied shape, with some tapering adjacent to the roundabouts. The appeal site also modestly tapers, and its frontage is amongst the narrowest within the street, but not the narrowest. As the frontage width of tapering plots is much less than that of non-tapering plots, buildings both located upon them, and sited to follow a similar building line, are closely spaced.
6. Relative to the roundabout, the siting of the proposed dwelling would be generally consistent with the established pattern. The spacing between it and 15 Courtlands Avenue would be similar to that between No 15 and 14 Courtlands Avenue, as too that between dwellings facing onto the roundabout at the end of the cul-de-sac. Furthermore, unlike these dwellings, a reasonably large gap would remain between the proposed dwelling and 16 Courtlands Avenue, which occupies an atypically deep position within its plot. In view of the above, the spacing would not appear inconsistent with the established pattern, and if anything, the proposed dwelling would appear moderately more well-spaced than some other dwellings on tapering plots.
7. Whilst the scale and massing of the proposed dwelling would fall within the existing range, its built form would be narrower and deeper than is generally typical. Building forms along Courtlands Avenue nonetheless show sufficient variation as a result of differences in their design, layout and past enlargement, that this could be accommodated without harm.
8. In terms of plot density, the development would lie at the upper end of the existing range. This would be partly in consequence of the plot tapering, and partly because the back of the plot is narrower than that of other tapering plots. Notwithstanding the site's prominent location, it is however unlikely that this relative difference in density would be broadly perceived, particularly given my findings in relation to siting and spacing above. For this and the above reasons, the siting, scale and design of the proposed dwelling would not cause it to appear cramped.
9. The rear boundary of the site adjoins that of the West End Conservation Area (the Conservation Area), which is designated to cover a large green and the historic development laid out adjacent. The site thus forms part of the physical setting of the Conservation Area, but there is little intervisibility. The site otherwise makes no obvious contribution to the significance of the Conservation Area. Therefore, and given that I have found that the development would be acceptable within the context of Courtlands Avenue, I am satisfied that the setting of the Conservation Area would be conserved.
10. For the reasons outlined above I conclude that the proposed development would be acceptable with regard to its effects on the character and appearance of the area. It would therefore comply with Policy CS17 of the Core Strategy

2011 insofar as this seeks to secure development that responds to the positive features of individual locations; Policy DM2 of the Development Management Plan 2015, which seeks to secure development that preserves or enhances the character of the area; and supporting guidance in the Elmbridge Design and Character Supplementary Planning Document.

Other Matters

Other objections

11. Interested parties have raised a broad range of additional concerns which are not shared by the Council. Those relating to the upkeep and use of Courtlands Avenue, and to restrictive covenants, are clearly private matters. Other concerns include parking provision, the safe use of the access, pedestrian safety, light, and outlook. Parking provision would however meet the Council's requirements, the risk of collisions is low given the nature of the immediate setting and the site's location within the cul-de-sac, and the siting, scale and form of the dwelling would not give rise to any unacceptable loss of light or outlook for neighbours. As such I see no reason to reach a view which differs from that of the Council.

Affordable housing

12. Policy CS21 of the Core Strategy sets out the requirement to provide a financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1–4 dwellings. This is calculated according a methodology set out with the Developer Contributions Supplementary Planning Document. These contributions are used by the Council to help deliver affordable housing elsewhere. Accordingly, a Unilateral Undertaking (UU) setting out an obligation to pay the contribution was provided with the application.
13. Current national policy set out within paragraph 63 of the National Planning Policy Framework (the Framework), states that affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. This applies equally to contributions made in lieu of on-site provision. Insofar as Policy CS21 pre-dates and does not recognise this threshold, it is inconsistent with paragraph 63 of the Framework.
14. In support of Policy CS21, the Council has provided the 2016 Strategic Housing Market Assessment for Kingston Upon Thames and North East Surrey Authorities. This sets out a relatively high level of need for affordable housing of 332 units per year 2016-2036. This is further supplemented by a statement (the Statement) prepared in response to paragraph 63 following its introduction to the now superseded 2018 version of the Framework. The Statement details local under delivery of affordable housing, alongside issues of affordability given high property prices. Whilst it seems likely that these issues still apply, as they do in many locations across the country, the Council has not provided any more recent evidence. The provision of such evidence can be reasonably expected given the non-compliant status of Policy CS21, as too the need for any obligation to pass the tests set out in paragraph 56 of the Framework, and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the Tests).
15. A bundle of appeal decisions has been provided to illustrate that other Inspectors have found in favour of Policy CS21. Albeit in these cases with

reference to the Written Ministerial Statement of 2014 and the Planning Practice Guidance. Indeed, these decisions are all dated between 2016 and 2017. Even those listed within the Statement do not post-date 2018. As the dates of the decisions correspond with that of the Council's evidence, its age of would not have been an issue in these cases.

16. I have taken into account paragraph 213 of the Framework, which states that due weight should be given to policies according to their degree of consistency with the Framework. In this particular case, the lack of recent evidence demonstrating a current and continuing need for small sites to provide a contribution towards affordable housing provision, indicates that greater weight should be given to national policy set out within paragraph 63 of the Framework, than to the requirements of Policy CS21. Consequently, though the UU may remain capable of legal effect, the obligation set out within it fails the first of the Tests. I have therefore not taken it into account in reaching my decision.

Conditions

17. I have imposed conditions setting out the time period for commencement of the development, and identifying the approved plans. This is for sake of certainty.
18. In addition, I have imposed a condition requiring the installation of a charging point for use by electric vehicles, and cycle storage. This is in order to facilitate the use of sustainable modes of transportation by future occupants of the dwelling, thus helping to limit its environmental effects.
19. The Council has requested 2 other conditions. Insofar as one specifies the materials to be used in construction, it is both unnecessary and lacking in justification. This is because the wall finishes and roofing are already specified on the plans, and because no clear rationale has been provided for requiring the installation of powder coated aluminium windows. None is otherwise apparent. I have therefore not imposed the condition.
20. The second requires the first and second floor windows and rooflights on the north-east and south-west side elevations to be obscure glazed. It is however apparent that the position of the rooflights, as shown on the proposed plans, would not provide easy views out. When additionally considering the relative orientation of the dwelling, there would be little scope for direct views into neighbouring gardens. As 2 of the windows would serve bathrooms, it is in any case unlikely that they would be clear glazed. The remaining window would serve a landing facing towards the side elevation of No 16, which is largely blank. As such, I find that the condition would not be necessary to safeguard the privacy of neighbours. Again therefore, I have not imposed it.

Conclusion

21. For the reasons set out above I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR