
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: 24 May 2021

Appeal Ref: APP/K3605/W/20/3264168

20 The Drive, Cobham KT11 2JQ

- 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 Mrs J Herbert of Rushmon Homes against the decision of Elmbridge Borough Council.
 - The application Ref 2020/1708, dated 8 July 2020, was refused by notice dated 4 November 2020.
 - The development proposed is described as construction of two detached 5 bedroom homes with integral garages, rooms within the roof spaces and basement rooms opening onto the gardens at the rear, following the demolition of the existing house and garage.
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Decision

1. The appeal is allowed and planning permission is granted for construction of two detached 5 bedroom homes with integral garages, rooms within the roof spaces and basement rooms opening onto the gardens at the rear, following the demolition of the existing house and garage, at 20 The Drive, Cobham KT11 2JQ, in accordance with the terms of the application, Ref 2020/1708, dated 8 July 2020, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area; and
 - whether the development would make the most efficient and effective use of land, having particular regard to its density and the unit mix.

Reasons

Character and appearance

3. The site is large plot containing a detached dwelling. It is located within a private gated estate, the layout of which is strongly characterised by large plots of varied size and shape, upon which typically stand very large detached dwellings. The prevailing pattern is therefore one of spacious low density, within which large back gardens play an important role. Whilst the dwelling currently on site appears atypically modest in scale, the existing low plot density is consistent with the prevailing pattern.

4. The proposed development would see the plot split and the existing dwelling replaced by 2 detached dwellings. The plots would be narrower in width than is typical, but given their considerable length, their overall area would remain comparable to that many other plots within the estate. Indeed, each would feature both a large back garden and a generous frontage.
5. The scale and massing of each of the proposed dwellings would each be greater than that of the existing dwelling. Considered together, the overall amount of built form proposed would be similar to that seen on plots of comparable width, which contain very large detached dwellings. So too would the siting and layout of the dwellings tight to the plot boundaries, which is a feature frequently seen elsewhere, without any necessary gradation of massing, or provision of large gaps between neighbouring dwellings.
6. Clearly in this case, the proposed built form would be split between 2 dwellings rather than concentrated within one. This would provide a finer grain, and a frontage density which, considered in terms of units, would be greater than is seen elsewhere within the estate. This would be made more apparent by the relative narrowness of the front elevations, and the close spacing of the dwellings. The Council has described this arrangement as 'cramped'. However, when set within the context of the overall provision and subdivision of built form and space within the site, it would not be so in reality.
7. The accommodation of 2 dwellings within the width of the plot would nonetheless appreciably differ from the prevailing pattern. Here I have taken into account the fact ground levels fall from front to back across the plot, meaning that the proposed development would be relatively lacking in prominence within the streetscene. I have also taken into account the fact that, in all other regards, the design and form of the proposed development would far better reflect the prevailing characteristics of the estate at large than does the existing dwelling. For these and the above reasons, when taken on balance, the differences identified would not be sufficient to cause unacceptable harm to the character and appearance of the area. Indeed, in my view the development would have a modestly net positive visual effect.
8. For the reasons outlined above I conclude that the development would have an acceptable effect on the character and appearance of the area. It would therefore comply with Policy CS17 of the Core Strategy 2011 (the CS) insofar as this seeks to secure development that responds to the positive features of individual locations; Policy CS10 of the CS, insofar as this similarly seeks development that integrates with and enhances local character; Policy DM2 of the Development Management Plan 2015 (the DMP), which seeks to secure development that preserves or enhances the character of the area; and supporting guidance contained within the Elmbridge Design and Character Supplementary Planning Document.

Efficient and effective use of land

9. Amongst other things, Policy CS17 of the CS requires development to be provided at a minimum density of 30dph. Policy CS19 of the CS meanwhile seeks to secure a range of housing types and sizes across the Borough reflecting the most up to date Strategic Housing Market Assessment. The Council assessed the scheme on the basis that both objectives should be delivered.

10. The 30dph standard appears to be derived from now expired national policy set out within Planning Policy Statement 3. Current national policy, as set out within the National Planning Policy Framework (the Framework), sets no such standard. Whilst it nonetheless allows for minimum standards to be set where there is an anticipated shortage of land for meeting identified housing needs, the Framework indicates the appropriateness of an approach which is more responsive to the potential of different areas than the blanket standard set out within Policy CS17.
11. Policy CS17 does however allow for lower densities which maximise the efficient use of land, where compliance with the standard would cause overriding harm to the valued character of an area. In this regard it is broadly consistent with the Framework. Indeed, whilst the Framework generally indicates that decisions should support development that makes efficient use of land, in doing so it stresses the desirability of maintaining an area's prevailing character and setting, including residential gardens.
12. The proposed development would not achieve a density of 30dph. However, as outlined in my reasons above, the estate within which the plot is located is not characterised by development of such high density. In this regard I have already in effect found that the density of the proposed development would be appropriate when considered relative to its context. Though my attention has also been drawn to relatively higher, but unquantified plot densities which exist on streets towards the southeast of the site, these lie outside the gated area of the estate, and so do not directly inform its character.
13. The Council states that the development would not provide smaller 1-3 bed units of a type for which a need exists locally, and which might indeed be accommodated within a denser development. Again however, neither the site at present, nor the area in question, is characterised by 1-3 bed dwellings. In any case, and as acknowledged by the Council, dwellings providing 4 or more bedrooms are also required locally. This is true whether or not they represent a small proportion of overall requirement. Moreover, in this particular case, the provision of 2, 5-bed dwellings, would again suit the surrounding context.
14. In terms of density and dwelling type, I have therefore found that the proposed development would achieve a satisfactory relationship with its setting, meet a local need for housing, and at the same time double the number of dwellings on the site, and thus the efficiency of land use. Such optimal use of the site would comply with the objectives of both Policy CS17 and the Framework, whilst providing an appropriate unit mix in accordance with Policy CS19.
15. The Council has nonetheless speculated that alternative forms of development might be accommodated, including tandem development or a block of flats. This is notwithstanding the fact that neither form of development is characteristic within the estate. Neither is in any case proposed. In this regard I am satisfied that the development would be acceptable without any necessity for this to be further demonstrated through the detailed exploration of obviously inappropriate alternatives.
16. The Council has further stated at appeal that community cohesion would be detrimentally impacted by a failure to provide smaller units. However, this concern has not been explained, and nor is it clear how and why it has any direct relevance to the case and context in question. This matter does not therefore alter my findings above.

17. A number of appeal decisions relating to other sites within the Borough have been drawn to my attention. As these decisions relate to locations outside the gated area of the estate, the specific attributes of the sites in question, as too the character of their contexts, inevitably differ from those of the current appeal site. It additionally appears that the percentage level of need for dwellings providing 4 or more bedrooms has seen a 10-fold increase since most, if not all these decisions were issued. Circumstances have therefore changed. Thus, whether or not the schemes in question were found to conflict with Policies CS17 and CS19 of the CS on the basis of their density or unit mix, they do not alter my findings above.
18. For the reasons set out above I conclude that the development would make the most efficient and effective use of land, having particular regard to its density and the unit mix. It would therefore comply with Policies CS17 and CS19 of the CS as covered above.

Other Matters

19. The Conservation of Habitats and Species Regulations 2017 states that before deciding to grant planning permission for a project which is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of that site, a competent authority must make an Appropriate Assessment (AA) of the implications of the plan or project for that site in view of that site's conservation objectives.
20. The potential for the development to have a likely significant effect on the integrity of the Thames Basin Heaths Special Protection Area (SPA), both alone, and in combination with other plans or projects, arises due to the increased population it would support within the 400m-5km Buffer Zone of the SPA. In this regard the associated generation of recreational activity could be ecologically harmful. An AA is therefore required.
21. Both the likely effects of the development, and the need for mitigation, have been confirmed within an AA undertaken by the Council. Natural England has been consulted in this context and further confirmed that it raises no objection subject to mitigation being secured in line with the AA and the Council's adopted strategy. I am content to rely on the Council's AA, and Natural England's response for the purposes of this appeal.
22. The Council's approach to mitigation is set out in the Development Contributions Supplementary Planning Document (SPD). Mitigation would take the form of contributions towards suitable accessible natural greenspace, and site access management and monitoring measures (SAMM). These are funded through a combination of the Community Infrastructure Levy (CIL), and planning obligations.
23. Whilst the additional dwelling would pay CIL, a Unilateral Undertaking (UU) was submitted with the application securing a contribution towards SAMM. In view of the above I find that the UU meets the tests set out paragraph 56 of the Framework, and Regulation 122 of the Community Infrastructure Levy Regulations 2010, and that it allows me to reach a conclusion that the development would have no adverse effect on the integrity of the SPA.

Conditions

24. I have imposed standard conditions setting out the time period for commencement, and identifying the approved plans for sake of certainty.
25. The Council has requested 5 conditions covering trees. These are unnecessary given that the matters covered are adequately addressed by the submitted plans, and an arboricultural report. Condition (3) therefore requires the development to be carried out in accordance with the arboricultural report and its attached plans. This is necessary in order to safeguard the positive contribution that trees make to the character and appearance of the area.
26. Condition (4) requires the prior approval of materials. It is necessary to help ensure the development has a satisfactory appearance relative to its setting.
27. Condition (5) requires the installation of charging points for use by electric vehicles. This is necessary in order to facilitate the use of sustainable modes of transport by future occupants, thus helping to limit their environmental effects.
28. Condition (6) requires the proposed landscaping and biodiversity improvements to be implemented. This is necessary to ensure that implementation occurs, in the interests of safeguarding the ecology and the character and appearance of the area. I have not however made reference to the 'Ecology Letter' reference 203223/ARB, given that the recommendations within it are so vague in nature that they would be difficult, if not impossible to enforce.
29. The Council has proposed 2 conditions in relation to privacy, one requiring the installation of screening to the terraces and steps to the rear of the proposed dwellings, the other requiring all windows and rooflights above first floor level in the sides of the dwellings to be obscure glazed. I have imposed neither. This is because the limited field of any potential view, combined with retained and new boundary screening, would give rise to little scope for harmful overlooking from the terraces and steps. It is also because the windows in question would either serve bathrooms where obscure glazing can reasonably be anticipated, or would be positioned at high level over a stair well. None would therefore provide the potential for harmful overlooking.
30. There is also no necessity to impose the suggested landscaping condition, or to require compliance with the submitted construction method statement. This is because sufficient landscaping details are shown on plan DPA-9034-05 Rev A, and due to a lack of evidence which demonstrates that compliance with the method statement would be required in the stated interests of highways safety.
31. Finally, I have not imposed a suggested condition requiring a 'sensitive lighting scheme'. This is because the requirement is inadequately defined. It is also because the requirement to achieve no net increase in artificial lighting it contains would be both difficult to demonstrate, and unreasonable, given that 2 dwellings constructed in place of one would inevitably give rise to an increase.

Conclusion

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

Benjamin Webb

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 accordance with the following approved plans: 2020.P.458.001; 2020.P.458.002; 2020.P.458.003; 2020.P.458.004; 2020.P.458.005; 2020.P.458.007; DPA-9034-05 Rev A.
- 3) The development hereby permitted shall be carried out in accordance with the Arboricultural Report dated July 2020, and the attached tree protection plans, reference: DPA-9034-02 Rev A, and DPA-9034-03 Rev A.
- 4) Construction of the development hereby permitted shall not proceed above slab level until specific details, including samples, of all facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 5) Prior to the first occupation of each of the dwellings hereby permitted, a fast charge socket of minimum specification, 7 kw Mode 3 with Type 2 connector, 230v AC 32 Amp single phase dedicated supply, shall be installed for use by its occupants, within a location that has first been submitted to and approved in writing by the local planning authority.
- 6) The landscape planting and biodiversity improvements shown on plan DPA-9034-05 Rev A shall be fully implemented prior to the first occupation of the development hereby permitted.