
Appeal Decision

Site visit made on 27 July 2021

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 7 September 2021

Appeal Ref: APP/K3605/W/20/3262377

8 Holtwood Road, Oxshott, Leatherhead KT22 0QJ

- 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 N Jones (Bluu Square Developments) against the decision of Elmbridge Borough Council.
 - The application Ref 2020/1149, dated 26 May 2020, was refused by notice dated 25 August 2020.
 - The development proposed is detached two-storey building with rooms in the roof space containing 5 flats with new access, associated parking and landscaping following demolition of existing house and outbuildings.
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Decision

1. The appeal is allowed and outline planning permission is granted for detached two-storey building with rooms in the roof space containing 5 flats with new access, associated parking and landscaping following demolition of existing house and outbuildings) at 8 Holtwood Road, Oxshott, Leatherhead, KT22 0QJ in accordance with the terms of the application Ref 2020/1149, dated 26 May 2020 and subject to the conditions in the attached schedule.

Procedural Matters

2. The planning application to which the appeal relates was submitted in outline form with all matters reserved except for landscaping. I have therefore treated the details as indicative of the matter reserved.
3. A signed and duly executed Unilateral Undertaking was submitted under section 106 of the Town and Country Planning Act 1990 (s106). The s106 aims to secure one of the units proposed as affordable housing in accordance with Policy CS21 of the Elmbridge Core Strategy (Core Strategy). I am satisfied that the s106 would meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the National Planning Policy Framework (the Framework). In light of the s106, the Council have confirmed that provision of affordable housing does not form a reason for refusal from their perspective.

Main Issues

4. The main issues in the appeal are:
 - The effect of the proposed development on the character and appearance of the surroundings.

- Whether it makes efficient and effective use of land when regard is paid to planning policy.

Reasons

Character and appearance

5. The character of the area is residential in nature, generally typified by large, individually designed dwellings that sit within relatively generous plots. My attention has been drawn to the Cobham, Oxshoot, Stoke D'Abernon and Downside Companion Guide which includes the site within the Crown Estate and Bevendean character area.
6. The companion guide is guidance, rather than planning policy, and is of some age. However, it is of general assistance in helping to draw out aspects of character that are relevant to this appeal. In particular, it highlights the local trend of replacing existing houses with considerably larger buildings and how that is slowly changing the character of the area. The need for careful management of this trend, particularly in relation to treatment of front boundaries is also noted.
7. The proposed two storey building would be of a larger footprint than the existing dwelling that occupies the site. It would also be differently positioned, more centrally located within the plot and therefore closer to the front boundary. This increased scale and different position, coupled with a change in the level of greenery at the boundary that would inevitably result from the creation of the new access and general maintenance of planting that currently appears overgrown, would result in a more visible presence of built form as seen in public views from Holtwood Road. The local topography would influence how the new building would be experienced from different vantage points, including approaching from a lower level from the Steels Lane end of Holtwood Road, on a level immediately adjacent to the north side of the site, and in private views from higher ground, notably from properties facing the site on the other side of the road.
8. Notwithstanding the change in the character and appearance of the land, the scale and position of the proposed building would be consistent with the general pattern of development along Holtwood Road, which in itself exhibits a degree of variance due to the individually designed nature of the dwellings.
9. Critically, the proposed building would be appropriately set back from the front boundary. This would maintain the sense of openness and width of Holtwood Road, which are important characteristics of the street scene.
10. The setback would also ensure sufficient space is available for planting and other landscaping, which would be the subject of a reserved matters application. Planting is unlikely to fully hide the building, although doing so would not be necessary or consistent with the pattern of development in what is a residential area. A well thought out landscaping scheme would, however, serve to soften the appearance of built forms and filter views from public spaces. Once established it would help to ensure a suitable standard of appearance that would maintain the character of the area.

11. Whilst I accept that landscaping is not a permanent feature and provides seasonal degrees of visual cover, the contribution that such a scheme could make in this case, coupled with other aspects of the design, would result in a suitable standard of development.
12. The building would be angled to address a more central point in the bend in Holtwood Road as it passes the site, albeit with the setback from the front boundary described above. This positioning is logical and more appropriate than orientating the principal elevation to align with the building lines of properties on either side, which would likely leave the side and rear of part of the building more visible from the road on one side with consequent impacts on the street scene.
13. The width of the building would not appear out of character with the area and would be broken up by the bay and other design features and the reduction in the scale of the side elements. The overall design of the building is classical in nature with a strong sense of symmetry. The design approach is elaborate, but consistent with the general appearance of other built forms in the area, where individual design character is a strong feature.
14. Taken as a whole, the evidence demonstrates that the scale, positioning, detailed design and potential for a quality landscaping scheme to be agreed at the reserved matters stage would be such that the proposal would not result in a dominant form of development and it could be successfully integrated into the street scene.
15. My attention has been drawn to how the proposal compares with previous proposals for the site. I have paid regard to these insofar as they have been brought to my attention whilst also considering the present proposal on its own merits.
16. In final conclusion on this issue, the proposal would have an acceptable effect on the character and appearance of the surroundings. Consequently, there is no conflict with Policies CS10 and CS17 of the Core Strategy or Policy DM2 of the Elmbridge Development Management Plan (Development Management Plan) and associated local supplementary planning guidance. Taken together these policies seek to ensure that development achieves a high quality and locally distinctive standard of design. These aims are also consistent with the objectives in the Framework of fostering well-designed and beautiful places

Use of land

17. The local authority area suffers from a shortfall in identified housing land supply and delivery. Whilst it cannot be assumed to be automatically out of date, the area is also governed in planning terms by a Core Strategy that is of some age. These issues bring with them a need to make productive use of the land that is available, including small and medium sites such as the appeal site. This approach is consistent with that encouraged by the Framework, which also highlights the need to make efficient use of land and the contribution that smaller sites can make in terms of housing delivery.
18. A lower density of development than would be required elsewhere in Brough is permissible in this area under Policy CS17 by exception. This low density is also important in terms of achieving a scale of development that is consistent with the character and appearance of the surroundings, as discussed above.

19. It is noted that planning permission was granted in 2019 for a development of nine flats spread across two blocks on a site that includes part of the appeal site (2019 Permission). As a result, an area of land immediately adjacent to the northern boundary of the appeal site (the Northern Site) that was included in the 2019 permission is excluded from the present proposal. The Northern Site is understood to be subject to a proposal for development that now benefits from permission in principle for up to three units.
20. Policy DM4 of the Development Management Plan seeks to encourage comprehensive development of sites, especially when it may result in additional public benefits to the Borough. Given the housing needs of the area, maximising the potential of sites for housing delivery should be regarded as one such additional benefit.
21. The grant of Permission in Principle for the Northern Site indicates that it is capable of being developed independently. Although, I accept that this is not definitive and is subject to further details coming forward at the technical details consent stage before planning permission can be regarded as existing for independent development on the Northern Site. Such an application would need to be assessed on its own merits and on the basis of the policy framework and other relevant context at that time.
22. Whilst the detailed merits of developing the Northern Site are beyond the remit of this appeal, the grant of permission in principle undermines the Council's arguments in relation to concerns about the residual plot size associated with the Northern site so some degree and the level of mutual dependency that exists between the 2 sites.
23. Notwithstanding this, in light of the close relationship between the appeal site and the history, it is not illegitimate to assess the proposal against Policy DM4. In this regard, there is limited evidence that the Appellant has taken all reasonable attempts to exhaust all opportunities to develop the sites comprehensively and, if the sites are now in different ownership, there is also limited evidence of joint working to deliver comprehensive development.
24. However, on the basis of the evidence available and the arguments put forward, the negative planning impacts resulting from a lack of such consideration are not clearly demonstrated. In particular, the risks that a grant of planning permission would fetter the potential for developing the Northern Site appear very low on the basis of the evidence that has been presented. Notwithstanding this, there is a degree of conflict with the requirements of Policy DM4.
25. I appreciate that the 2019 Permission included nine flats, which would be one more than the appeal proposal would deliver in combination with the maximum number of units agreed under the Permission in Principle for the Northern Site. This is a small deficit that could be made up for in other aspects, such as delivering a development that better fits market demand. It is also noteworthy that the 2019 Permission failed to deliver any affordable housing, whereas the appeal proposal is able to generate one unit on site in accordance with the submitted s106. Viewing this issue in the round, and considering all the available evidence, the proposal cannot be regarded as failing to make efficient use of land

26. In final conclusion on this issue, there is an absence of evidence that the Appellant has taken all reasonable attempts to exhaust all opportunities to develop the sites comprehensively and, if the sites are now in different ownership, there is also limited evidence of joint working to deliver comprehensive development. As such, there is a degree of conflict with Policy DM4 in this regard.

Other Matters

27. I have paid regard to comments raised by other interested parties, made both during the determination of the planning application and in response to this appeal. Issues relating to the Council's reasons for refusal have been considered as part of my assessment of the relevant issue. Some of the other issues raised can be adequately managed through the use of conditions, which are discussed below. This includes conditions relating to highways issues, land contamination and design. Issues relating to landscaping would be the subject of a subsequent reserved matters application.
28. The proposal would make adequate provision for car parking and access to and from the site. It is also of a scale that is unlikely to impact on the overall capacity of the local highway network or contribute negatively to local air quality. The scale of development is also such that it is unlikely to materially impact on other local infrastructure, such as schools and doctors.
29. The location of car parking and waste storage would be such that it would not detract from the appearance of the proposed building or the character and appearance of the area, this is due in part to boundary features and the potential to ensure appropriate screening as part of a detailed landscaping scheme.
30. The proposal would be acceptable in relation to its effects on the living conditions of those living nearby. It would result in an increase in the level of residential use at the site, resulting from the use of 5 flats versus a single dwelling. Whilst I appreciate concerns about increased activity, the use would still be consistent with a residential neighbourhood and, given the scale of development, not of an intensity that would justify withholding planning permission on the grounds of potential for noise and disturbance.
31. Whilst a level of disturbance during the development works is inevitable, this could be adequately managed using a condition that would require mitigation measures to be agreed prior to construction beginning.
32. In relation to effects on privacy, the proposed development would result in new views being created towards surrounding properties. This would be primarily from the upper floors of the new building. However, given the level of separation between buildings, such views would not create unacceptable privacy conditions, including towards the buildings on higher ground on the other side of Holtwood Road.
33. Other matters raised have been considered, but do not affect my conclusions on the main issues.

Conclusions

34. The Council acknowledge that a 5 year supply of deliverable housing sites cannot be demonstrated at present and that performance against the Housing Delivery Test is below requirements. The consequence would be to render the policies which are most important for determining the application out of date and to trigger consideration of whether the presumption in Paragraph 11 of the Framework applies.
35. I have identified conflict with the requirements of Local Plan Policy DM4 for the reasons explained above. Material planning harm resulting from this conflict is not demonstrated on the basis of the available evidence. As such, the overall degree of conflict can only be regarded as limited
36. The main benefit of the proposal relates to the provision of housing, including affordable housing, at a time when the local authority area suffers from a shortfall in identified housing land supply and delivery in a location that is identified as being suitable for housing. As such, delivery of housing is a significant benefit of the proposal.
37. Weighing up all the available evidence and arguments put forward, I conclude that the adverse impacts of granting planning permission do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
38. Consequently, the presumption at paragraph 11 of the Framework points towards granting planning permission. As such, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

39. I will consider conditions by reference to the numbering in the attached schedule.
40. Conditions (1) (2) (3) are necessary to comply with the relevant requirements of the Town & Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004.
41. Condition (4) is necessary in the interests of certainty.
42. Condition (5) is needed to ensure a satisfactory standard of appearance.
43. Conditions (6) and (7) are necessary in the interests of highway safety.
44. Condition (8) is necessary in the interest of managing any impacts of construction on the surroundings. It needs to be a pre-commencement condition as it includes measures that need to be in place before construction work starts on site.
45. Conditions (9) and (10) are needed in the interests of encouraging sustainable travel choices.
46. Conditions (11), (12), (13), (14), and (15) are necessary in the interests of managing risks associated with land contamination and harm to human health. Condition (11) needs to be a pre-commencement condition as it includes measures that could not easily be retrofitted at a later stage.

47. Although landscaping would be the subject of a reserved matters application, condition (16) is necessary to set out what details should be included in that application in the interests of ensuring satisfactory provisions in relation to trees.
48. Condition (17) is necessary in the in the interests preserving and enhancing protected species and biodiversity.

D.R. McCreery

INSPECTOR

Schedule of conditions

1. Details of the landscaping (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matter shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
4. Unless the details are illustrative of the reserved matter the development hereby permitted shall be carried out in accordance with the following plans: HA20-110 P08, DPA-8093-03 Rev A received on 14/05/2020; HA20-110 P01 Rev A, HA20-110 P02 Rev A, HA20-110 P03 Rev A, HA20-110 P04 Rev A, HA20-110 P05 Rev A, HA20-110 P07 Rev A, HA20-110 P10 Rev A received on 27/05/2020, DPA-8093-02 Rev A received on 14/05/2020, DPA-8093-03 Rev A received on 14/05/2020, DPA8093/AIS/REV 1 received on 14/05/2020.
5. No above ground development shall take place until samples 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 Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.
6. No part of the development shall be first occupied unless and until the proposed vehicular access has been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1.05m high unless otherwise agreed in writing with the Local Planning Authority.
7. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking/turning areas shall be retained and maintained for their designated purposes unless otherwise agreed in writing with the Local Planning Authority.
Reasons: The above conditions are required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users. The conditions are also required in recognition of Section 4 "Promoting Sustainable Transport" in the National Planning Policy Framework 2019.
8. Prior to commencement of development a Construction Transport Management Plan shall be approved in writing by the Local Planning Authority. The Plan shall include details of: (a) parking for vehicles of site personnel, operatives and visitors (b) loading and unloading of plant and

materials (c) storage of plant and materials (d) programme of works (including measures for traffic management) (e) provision of boundary hoarding behind any visibility zones (f) HGV deliveries and hours of operation (g) vehicle routing (h) measures to prevent the deposit of materials on the highway (i) on-site turning for construction vehicles. The development shall be carried out in accordance with the Plan unless otherwise agreed in writing with the Local Planning Authority.

9. The development hereby approved shall not be first occupied unless and until secure, covered and lit storage for 6 bicycles has been provided within the site in accordance with details that shall first be approved in writing with the Local Planning Authority, to include the method of illumination. The approved facilities shall be retained and maintained as such unless otherwise agreed in writing with the Local Planning Authority.
10. The development hereby approved shall not be first occupied unless and until each of the proposed units are provided with a fast charge Electric Vehicle socket (current minimum requirement: 7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. A further 20% of available spaces to be provided with power supply to provide additional fast charge sockets in future unless otherwise agreed in writing with the Local Planning Authority.
11. Prior to commencement of development a Land Contamination Report, compiled by a suitably qualified person, shall be submitted to and approved in writing by the Local Planning Authority. The Report shall detail : a) Preliminary Investigations of the Site carried out by a competent person prior to any site clearance or demolition, to assess the condition of the land to be re-developed, in respect of contamination. The preliminary investigation must, as a minimum, include a desk-based evaluation, site walkover and Conceptual Site Model and may include intrusive investigation. b) Details of any necessary site Investigation, Method Statement and Remediation (Method Statement) to include (i) A written site-specific investigation plan using a methodology agreed with Local Planning Authority (ii) A written statement detailing any remediation requirements and how their successful implementation will be demonstrated and monitored.

The development shall be carried out in accordance with the Method Statement unless otherwise agreed in the writing with the Local Planning Authority. Any monitoring identified in the Method statement shall be installed within the timescales identified in the Method Statement and maintained and operated for as long as identified by the Method Statement.

12. If during development contamination not previously identified under condition 11 is found to be present at the site then no further development shall be carried out until the developer has submitted, and had approved by the Council, a written addendum to the Method Statement detailing how the unsuspected contamination shall be dealt with.

13. Piling Development approved by this permission shall not commence unless the method for piling foundations (if piling is to be used on site) has been submitted to, and agreed in writing, by the Local Planning Authority. The piling shall be undertaken only in accordance with the approved method unless otherwise agreed in the writing with the Local Planning Authority.
14. Clean, uncontaminated rock, soil, brick rubble, crushed concrete or ceramic only shall be permitted as infill material. The developer shall not import any material until a sampling program, including appropriate import criteria for the proposed end use and frequency of sampling, has been submitted in writing, and approved by, the Local Planning. The Developer shall carry out the approved sampling program to check that all imported material conforms to the agreed criteria. Where the permitted end use is residential, the sampling program shall also include samples taken from the imported material after final placement. Written confirmation of the suitability of all imported materials shall be provided to the Local Planning Authority to include both the results of the sampling program and also details of the origin, transport, final deposition and any temporary stockpiling of the imported materials.
15. Prior to occupation of the development a written Verification Report shall be submitted to, and agreed in writing by, the Council providing verification that the required works regarding decontamination and installation of post remediation monitoring, have been carried out in accordance with the agreed Method Statement and any addenda thereto. The verification shall be carried out and reported by an independent, competent person, stating that remediation was carried out in accordance with the approved remediation scheme and that the site is suitable for the permitted end use.
16. The application for approval of the reserved matter shall include an Arboricultural Method Statement which shall be agreed in writing with the Local Planning Authority. The Statement shall include details of : a). a landscape proposal that; a. reflects, conserves or enhances the existing landscape and integrates the development into its surroundings, adding scale, visual interest and amenity, b.) contributes to biodiversity by conserving existing wildlife habitats, creating new habitats and providing links to the green infrastructure network, c.) encourages adaptation to climate change, for instance by incorporating Sustainable Drainage Systems (SuDS), providing areas for flood mitigation, green roofs, green walls, tree planting for shade, shelter and cooling and a balance of hard and soft elements, d.) does not result in loss of, or damage to, trees and hedgerows that are, or are capable of, making a significant contribution to the character or amenity of the area, unless in exceptional circumstances the benefits would outweigh the loss, e) necessary tree protection and retention measures. Taking into consideration the size of the site and anticipated area for new planting, the Council expects a minimum of Semi Mature Small leaved Lime x1, Dawn Redwood x1, Rowan x3, Judas tree x3, Birch x3, Hedging to be standard Hawthorn and/or Beech/Yew/Photinia to be planted

to maintain future arboricultural amenity. The development thereafter shall be implemented in strict accordance with the approved details.

17. The development shall be carried out in accordance with the conclusions and recommendations in the Bat Emergence and Re-entry Surveys by Arbtech dated 24/06/2019. The trees identified for planting as part of the ecological enhancements programme, should be complimentary to those growing in adjacent and surrounding deciduous woodland identified as habitat of principal importance, using native species raised and grown only in the UK. Planting should focus on nectar-rich flowers and/or berries as these can also be of considerable value to wildlife.