



Appeal Decision

Site Visit made on 20 October 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 NOVEMBER 2021

Appeal Ref: APP/K3605/W/21/3272296

32 Green Lane, Cobham, KT11 2NN

- 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 Mrs A Peker of Fairpek Property Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2020/3342, dated 30 November 2020, was refused by notice dated 5 March 2021.
 - The development proposed is erection of a terrace of 4 x 2-storey houses with additional loft space accommodation, with associated forecourt parking, landscaping details and bin storage following demolition of existing building.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking (UU) has been submitted which includes mechanisms to contribute towards mitigation of the effects of the proposed 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 Issue

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

Reasons

4. Green Lane is characterised by the appearance of substantial dwellings set in their own grounds, with some of these buildings used as flatted developments. Front gardens are frequently enclosed by substantial boundaries including hedges and planting. These are set behind grass verges which are particularly generous on the southerly side of the road. Together this creates a leafy green character and a generous sense of openness in the Lane.
5. No 30 is accessed via a private driveway and its frontage is not easily visible from Green Lane. Although there is hardstanding for car parking to the front, given its location and setting this does not form an overriding part of the character and appearance of the area.
6. No 32 is a substantial dwelling at the end of the Lane where the road is unmade. Its front garden has been laid to gravel and there is no grass verge at this plot. Nevertheless, its open frontage makes a positive contribution to the generous setting of the host building and sense of spaciousness in this area.

7. The front garden area for the proposed development includes mainly hard landscaping for eight car parking spaces. The spaces are not aligned and small areas of planting are proposed. Nevertheless, this limited softening would not overcome the developed urban appearance which would occupy the vast extent of the frontage of this property. This is harmfully at odds with the spacious green character of the road.
8. The proposed building would share many of the features of a large, detached dwelling which is characteristic in this area. However, the proposed building would include four entrance doors, arranged in pairs, to the front elevation. These would provide separate entrances to each of the four terraced properties. Nevertheless, the inclusion of these doors does not overwhelm the appearance of this property as a single large building and does not result in the building clearly appearing as a terrace of dwellings. Furthermore, given the existence of other flatted developments nearby, the subdivision of a larger building into smaller units is appropriate in this context.
9. Benfleet Hall, a grade II* listed building is to the north west of the site on the opposite side of the road, and the locally listed building at 26 Green Lane is to the south. The Council did not refuse the application on the grounds that it would have a harmful effect on the setting of these buildings, and I am not presented with detailed evidence which would lead me to conclude otherwise.
10. I have found that the design of the proposed terrace of houses would be acceptable, however this would not diminish the harm I have identified arising from the provision of the car parking within the front garden.
11. Consequently, the proposed development would have a harmful effect on the character and appearance of the area. As such it would be contrary to policies CS10 and CS17 of the Elmbridge Core Strategy July 2011 (the Core Strategy) and DM2 of the Development Management Plan April 2015 which together seek high quality design with particular regard to local character and within Cobham, amongst other things. As well as to the advice in the Design and Character Supplementary Planning Document April 2012 which provides further detail as to how high quality design can be achieved. These policies are broadly consistent with the National Planning Policy Framework (July 2021) (the Framework).

Other Matters

Affordable housing

12. Policy CS21 of the Core Strategy requires that for this development a financial contribution equivalent to the cost of 20% of the gross number of dwellings should be provided. However, the policy pre-dates the Framework which states that affordable housing should not be sought for residential developments that are not major developments.
13. The Council has provided me with substantive evidence that there is an acute need for affordable housing in the Borough, the importance of small sites in delivering this, and that these requirements do not place a disproportionate burden on developers. Therefore, based on this specific local evidence, the Framework's provisions, do not outweigh the development plan in this instance.
14. I am provided with a UU which includes a contribution of around £228,000 towards off site affordable housing. Although there would be no affordable

housing provided on site, the contribution towards off site provision is nevertheless an important social benefit of the proposed development.

Fallback

15. The Council has granted planning permission for a similar development¹ to that proposed. The main differences between these schemes are that the fallback scheme provides four flats and undercroft car parking at ground floor with the front garden mainly soft landscaped. That scheme would make a contribution towards affordable housing of around £147,000.
16. Given the similarities between the proposals, if the appeal were dismissed there is a real prospect that the approved planning permission would be implemented. Furthermore, this likeness means that I afford significant weight to the fallback position of the implementation of this permission.
17. The fallback position would not cause permanent environmental harm to the character and appearance of the area that I have found would arise with the appeal scheme. The fallback proposal would contribute less to the provision of affordable housing and would deliver four slightly smaller residential units. However, given the limited differences between the benefits of the two proposals, the appeal proposal would be more harmful than the fallback.

Planning Balance

18. The Council cannot demonstrate a 5 year supply of deliverable housing sites and states that they have a 3.96 year supply of housing land. Additionally, the Appellant states that the Council achieves a 58% delivery rate in the housing delivery test. Consequently Paragraph 11 d) of the Framework is engaged.
19. The proposed development would result in the social and economic benefits associated with the provision of four dwellings and off site affordable housing. This would contribute to the government's target to significantly boost the supply of homes. However, these benefits would be very similar to those which would be achieved in the fallback scheme. Consequently, the additional benefits delivered by the appeal scheme are minimal.
20. On the other hand, the Framework seeks to promote good design by ensuring that development is visually attractive as a result of good architecture, layout and appropriate and effective landscaping. The scheme would not comply with this objective as it would result in permanent harm to the character and appearance of the area. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the minimal benefits, when assessed against the policies in the Framework as a whole.

TBHSPA

21. The TBHSPA is a habitats site that has a high level of protection. It is designated because of the presence of Dartford warbler, woodlark and nightjar. The Council has a strategy that seeks to mitigate the impacts on the TBHSPA site arising from pressure from residential development. The appellant has provided mitigation in the form of a Strategic Access Management and Monitoring Contribution. Notwithstanding this, there is no need to consider the

¹ 2019/2469

implications of the proposal on the protected site because the scheme is unacceptable for other reasons.

Conclusion

22. The proposal would not accord with the development plan and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that this appeal should be dismissed.

H Miles

INSPECTOR