



Appeal Decision

Site Visit made on 8 November 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2021

Appeal Ref: APP/K3605/W/21/3271737

91 Queens Road, Weybridge, KT13 9UQ

- 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 Robertson, against the decision of Elmbridge Borough Council.
 - The application Ref 2020/1007, dated 21 April 2020, was refused by notice dated 23 September 2020.
 - The development proposed is a detached two-storey building containing 6 flats with associated bin and cycle store following demolition of existing building and boundary wall.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amended plan¹ has been submitted that shows the proposed balcony on the northwest elevation. This was erroneously omitted from the plans submitted to the Council. The amended plan is not materially different to the plan refused and the Council has not objected to its use. As a result, I have taken this plan into account without prejudice to any party.

Main Issues

3. The main issues are:
 - The effect of the proposal on parking availability, with particular regard to the impact on the convenience and amenities of local residents,
 - The effect of the proposed development on the character and appearance of the area,
 - The effect of the proposal on the living conditions of neighbouring occupiers with particular respect to privacy and future occupiers in terms of privacy and the size of internal living space,
 - Whether the proposed development would make adequate and required provision for affordable housing, and
 - Whether the proposed development would affect the integrity of the Thames Basin Heath Special Protection Area (SPA).

¹ Front and rear proposed plan. Ref: DP/15 RevC

Reasons

Parking provision

4. South Road is a narrow cul-de-sac that includes a combination of commercial and residential uses. It becomes predominantly residential in character close to its terminus. Many of these residential properties do not have on plot parking. The road is subject to double yellow lines and a Controlled Parking Zone (CPZ) that is active 09:00 to 18:00 Monday to Saturday. Furthermore, Queens Road is also subject to parking restrictions. Close to the site this includes two-hour maximum stay parking bays (between 08:00 and 18:00 Monday to Saturday) and double yellow lines. Also, many residential roads, on the other side of Queens Road to the appeal site, have further parking restrictions.
5. Although only providing a snap-shot in time, during my visit I observed substantial parking stress on nearby streets which are currently not subject to CPZ restrictions. I therefore do not find that the CPZ defines the full extent of local roads that are under parking stress. Consequently, it appears that local parking stress is high.
6. Although close to a local centre, the site would provide access to a limited range of local goods and services and is not of sufficient scale to provide for all future occupier's day to day needs. The adjacent bus services, within the centre, seem to be limited and the closest Railway Station is around one kilometre from the site. The site is therefore deemed to be within in an only moderately accessible location.
7. Accordingly, future occupiers of the flats would be unable to fully rely on public transport, cycling and walking to access services and employment. There is no guarantee that future occupiers would not own a private car. Noting that nearby streets are likely to provide accessible parking options on-street parking would exacerbate existing parking stress. Furthermore, York Road car park appears to be too remote and discrete to offer a realistic alternative for future occupiers seeking local parking. The 'moderate' parking stress data, referenced in discussions with respect to nearby sites, is too dated to offer an accurate current picture of local parking stress. Also, a condition to preclude future occupiers from having access to a parking permit within the CPZ would not prevent parking beyond the CPZ.
8. The existing warehouse and showroom area would have attracted parking and servicing demands. Nevertheless, it is unconvincing, based on the evidence before me, that this level of activity would be greater or similar to the quantity or type of parking requirements associated with the proposed 24-hour use. Furthermore, despite no objection having been raised by the Highway Authority, the effect of increased parking pressure would affect resident's living conditions more than result in a highway safety impact.
9. Several appeal decisions have been referenced by various parties. I have considered the proposal on its own merits. However, in the case of Wessex² opposite the site, the Inspector found that the proposal would have a reduced likelihood of car ownership, due to the site's accessible location, the size of proposed dwellings and the existing parking restrictions. This decision concluded that highway pressure could be adequately managed by excluding

² Planning Appeal Decision: APP/K3605/W/19/3240173

future occupiers from access to resident parking permits. Also, whilst recognising that Monument View was approved without on-site parking, limited evidence is available to illustrate its context that may not be subject to similar parking stress. Furthermore, recent appeal decisions³ in South Road without on-site parking, have found that those proposals would exacerbate local parking stress in conflict with policy DM7 of the LP.

10. As a consequence, the proposal would result in on-street parking demand that would put additional and demonstrable parking stress on the area to the detriment of the convenience and amenities of local residents. The proposal would therefore be contrary to policy DM7(b) of the LP and Paragraph 127 (a) and (f) of the Framework. These policies seek, among other matters, for parking provision to not result in on-street parking stress to the detriment of local residents, to function well and to add to the overall quality of an area.

Character and appearance

11. Buildings along South Road are two-storey in character and include a range of styles. Many of these include interesting architectural features, including brick detailing and tile hanging. As a group these create a pleasant and attractive environment within a close-knit setting. The appeal site is a retail unit that includes a large warehouse to its rear and flats above its frontage. The warehouse element is a two-storey building that lacks fenestration or architectural detailing. As such, it conveys a neutral effect on the character and appearance of the area.
12. The proposed development would replace the existing building with a form of development that would provide interest and articulation to the street that is currently absent. The proposal would follow established building lines and be of a scale that would complement the local pattern of development. The use of render and brick elements would disaggregate the form into elements that replicate the grain of local development.
13. That said, the proposed balconies are relatively bulky additions and would not complement the simple proportions of the proposal. However, these would be largely discrete and be located to the side of the building adjacent to Beacon Mews, having a limited visual impact on the street. The balcony located on the southwest elevation would be positioned in a more prominent position. This element that would create a harmful juxtaposition with the otherwise simple forms of the proposal, though this would be moderated by the pleasing composition overall. Therefore, the design taken as a whole, including the benefits instilled through the resultant replacement of the existing building, would be a positive addition to the streetscene.
14. The proposed development would therefore have a positive effect on the character and appearance of the area. Consequently, the proposal would comply with policy CS17 of the Elmbridge Core Strategy (2011) (CS), policy DM2 of the LP, the Council's Design and Character SPD and the Framework. These policies, among other matters, seek development to be high quality and based on an understanding of local character.

³ Planning Appeal Decision: APP/K3605/W/20/3262414 and APP/K3605/W/20/3259759

Living conditions

15. The proposed flats would include windows serving habitable rooms to both sides and the elevation facing South Road. Views to the west of the site largely consist of offices and storage areas in connection with adjacent commercial activity. Beacon Mews consists of two-storey and single-storey development within a narrow plot. Although it was not clear from my site visit, or within the evidence, some of these buildings appeared to be in residential use.
16. The side balconies would be open and exposed to direct views from the users of 1 and 2 Beacon Mews. Both neighbouring properties have first-floor windows that would look towards the site. The intervisibility formed here would be over an extremely short distance. This would result in substantial overlooking towards the living room and balcony of the middle first floor flat and in return into the first-floor windows of No's 1 and 2. This would result in a substantially harmful effect for future and neighbouring occupiers that planning conditions could not suitably mitigate.
17. The proposal would gain oblique views towards the side garden and windows of South Lodge. Views would also be partially screened by a large intervening street tree and the dwelling's front boundary wall. Also, the nearest flats, at No's 91 and 93 would be only marginally affected by the proposal due to the orientation and location of its proposed windows. As such, the screening and orientation of the proposal would limit the extent of overlooking that would occur to these neighbouring dwellings.
18. Wessex is currently under construction to create nine flats. The proposed building and the approved development would be relatively close to each other. However, the nearest facing windows, within flat two, would serve a bathroom and landing window. Furthermore, windows of flat four would gain only oblique views of the neighbouring building's habitable rooms. Consequently, the proposal would result in limited overlooking towards Wessex.
19. The proposal shows each flat having one bedroom. These would range in size from 42m² to 47m². The National Described Space Standards (NDSS) requires a one-bedroom/one person flat to be a minimum of 39m² and be 50m² if for two people. Although the proposed plans show double beds, I do not find this alone provides compelling evidence that the flats would be occupied by two people. Moreover, the intention of the NDSS is that the size of the bedroom determines how occupancy is defined. The bedrooms do not exceed 11.5m² and therefore do not meet the size requirement of a double bedroom. Furthermore, a width of 2.75 metres is only required to be achieved for double bedrooms. Falling between 7.5m² and 11.5m² these rooms are deemed to be single bedrooms. As such, the proposal would provide six single occupancy dwellings which would satisfy the NDSS and achieve a high standard of amenity for future users.
20. Therefore, overall, the proposal would result in future occupiers of the proposal being harmfully overlooked and result in a moderate loss of privacy for occupiers of Beacon Mews. As a consequence, the proposal would be contrary to policies DM2 and DM10 of the LP, policies CS1 and CS4 of the CS, the Design and Character SPD and the Framework. These seek development, inter alia, to protect the amenity of adjoining and potential occupiers and users and provide adequate privacy.

Affordable housing provision

21. Affordable housing is sought through Policy CS21 of the CS. This requires a provision of 30% of the units for schemes that are between 6-14 units to be affordable. However, the Framework, states that affordable housing should not be sought for residential development that are not major developments. This followed the Written Ministerial Statement 2014 (WMS) which stated that due to the disproportionate burden of developer contributions on small scale developers, affordable housing and tariff style contributions should not be sought for sites of 10 units or less. Nevertheless, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
22. The Council's position Statement in 2018⁴ explains that despite the WMS and subsequent changes to the Framework it will continue to seek affordable housing on small sites. This is due to a combination of the high level of small sites that contribute towards the borough's supply of affordable housing, the acute affordable housing need, the cost of housing in the borough and the capability to test the viability of a scheme to ensure it can tolerate the provision.
23. As such, the continuing application of the policy would not present an obstacle in bringing small sites forward that cannot sustain such provision. I recognise the recent financial difficulties found with respect to the delivery of development at 34 Queens Road and Leverton Street. Nevertheless, there is limited evidence that the requirement for affordable housing places a substantive and unreasonable financial burden on most small development sites. This position has been supported by most previous appeal decisions. That said, a recent appeal decision at 3 New Road⁵ states that, with respect to affordable housing, the Framework should be strictly adhered to. However, in that case there was evidence that the scheme would be unviable if it was required to provide affordable housing. As such the circumstances were materially different to the appeal proposal.
24. Taking all of the above together, although the Framework is a significant material consideration, policy CS21 is of greater weight than the Framework in this instance.
25. The proposal is without a legal mechanism to secure a planning contribution towards affordable housing or a viability appraisal to illustrate that making such a payment would render the proposal unviable. Consequently, the proposal would fail to satisfy policy CS21 of the CS and the Developer Contributions SPD (2012) for the above reasons.

Thames Basin Heath SPA

26. Part of the site is within the 400m – 5km buffer of the Thames Basin Heath SPA. The SPA is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The Regulations require that the decision maker may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site. This requires consideration of whether the proposal would have an effect

⁴ Elmbridge Borough Council -Affordable Housing on small sites 2018

⁵ Appeal Decision Reference: APP/K3605/W/19/3226776

on the qualifying features of the site, either alone or in combination with other plans and projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment (AA) of whether the plan would affect the integrity of a European site must be undertaken.

27. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake the AA. It would also have required a consideration of whether any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Other Matters

28. The Council is not able to demonstrate it has a 5-year housing land supply with a substantial undersupply. The appellants also identify that in March 2020 the Council's Housing Delivery Test result was 58%. The evidence submitted suggests there has been a consistent underperformance in housing delivery and is confirmed in the annual Housing Delivery Test. I recognise that the proposal would make efficient use of land. Also, as a small windfall site, the proposal could make a rapid contribution to housing in the area.

Conclusion

29. The adverse impacts arising from the proposal relate to the increase in parking stress, the absence of affordable housing and the impact on living conditions. In these respects, the proposal would be in conflict with relevant development plan policies.
30. As the Council is unable to demonstrate a 5 year supply of housing land the policies that are most important for determining the application are deemed to be out of date. These policy provisions relate to parking provision, design, living conditions and affordable housing. With the exception of affordable housing, I find the relevant policies to be consistent with the provisions of the Framework. As such I am able to give substantial weight to the conflict with these policies.
31. Set against this, the Government's objective is to significantly boost the supply of homes. In the context of substantial undersupply, the provision of six residential units would make a modest contribution to the Council's five-year housing land supply. I afford considerable weight to the social and economic benefits this would bring.
32. I have found that this proposal would be poorly related to its surroundings with significantly adverse impacts, matters of substantial weight. I have also given considerable weight to benefits. Nonetheless, on balance I find that the identified harm significantly and demonstrably outweighs the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply. For the above reasons, the appeal is dismissed.

B Plenty

INSPECTOR