



Appeal Decision

Site visit made on 24 November 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 DECEMBER 2021

Appeal Ref: APP/K3605/W/21/3275015

Land at 18 Freelands Road, Cobham KT11 2ND

- 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 Dilip Awtani against the decision of Elmbridge Borough Council.
 - The application Ref 2020/2629, dated 7 October 2020, was refused by notice dated 5 March 2021.
 - The development proposed is erection of 2 no. semi-detached dwellings, an ancillary refuse and cycle store, parking, landscaping and all other associated development works following demolition of existing buildings.
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Decision

1. This appeal is dismissed.

Preliminary Matters

2. Revised plans have been submitted within the appellant's evidence which includes changes to rooflights and the ground floor rear elevation. These were not before the Council at the time that they made their decision and interested parties would not have been made aware of these revisions. Therefore, in the interests of fairness and openness these revised plans will not form any part of this assessment.
3. 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

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

Reasons

5. Freelands Road is a residential road that includes a variety of building styles. Nevertheless, the similar plot widths and layout with detached and semi-detached properties fronting the street with generous back gardens results in a distinct urban grain. To the rear, the gardens result in a secluded context, and this remains even with the subservient garages to the rear of No 20. This pattern of development is an attractive and important quality of this area.
6. The appeal site includes the rear part of the plot at 18 Freelands Road, accessed via a long narrow driveway. There are modest single storey

outbuildings on this site which I understand are currently used for storage in connection with No. 18. Whilst they seemed to be in a poor state of repair they nevertheless appear as ancillary to the No. 18 and are appropriate in this respect.

7. The appeal proposal would introduce two dwellings, with plot sizes much smaller than others on Freelands Road, to this site. Their overall height would be less than 1m lower than the host property and, due to the existence of gable ends and first floor windows, the dwellings clearly appear as two storeys. Notwithstanding the dispute as to the dwellings per hectare calculation for this development, the proposed development would appear harmfully cramped relative to its setting and would be unacceptably dominant. Consequently, the proposed houses would notably detrimentally compromise the attractive established urban grain in this area.
8. Policy DM10 of the Elmbridge Local Plan Development Management Plan April 2015 (the Local Plan) and the Elmbridge Local Plan Design and Character Supplementary Planning Document April 2012 (the SPD) take a positive approach to backland development. Nevertheless, both are clear that the effect on character and appearance must also be appropriate. Given my findings above, the development would conflict with this policy and the SPD in this regard.
9. The SPD recommends separation distances and garden lengths in order to provide appropriate privacy and living conditions for existing and future occupiers. Therefore, whether or not the appeal scheme complies does not alter my conclusions on this main issue. Furthermore, the development would be highly visible from surrounding gardens and properties and as such the harm identified would be experienced.
10. Consequently, the proposed development would be harmful to the character and appearance of the area. Therefore, in this respect, it would be contrary to Policies DM2a and b and DM10 of the Local Plan, and CS10 and CS17 of the Elmbridge Core Strategy July 2011 (the Core Strategy), as well as the guidance in the SPD. Together these seek to achieve high quality design which respects the local character, including with particular respect to development on garden land and within Cobham, Oxshott, Stoke D'Abernon and Downside, amongst other things.
11. Policy DM2e relates to the living conditions of neighbouring occupiers. Therefore, the policies set out above are more relevant to this main issue.

Other Matters

12. The appeal scheme involves the provision of 2 new 3 bedroom dwellings on previously developed land in an area close to shops and services. There is an identified need for smaller homes in the Borough. Furthermore, I am provided with a UU which includes a contribution of around £96,000 towards off site affordable housing.
13. 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 National Planning Policy Framework (July 2021) (the Framework) states that affordable housing should not be sought for residential developments that are not major developments.

14. The Council has provided 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.
15. The provision of housing along with an off site contribution is an important social benefit of the proposed development.

Planning Balance

16. The Council cannot demonstrate a 5 year supply of deliverable housing sites and the appellant states that the Council achieves a 58% delivery rate in the 2019 housing delivery test. Consequently Paragraph 11 d) of the Framework is engaged.
17. The proposed development would result in the important social and economic benefits associated with the provision of two dwellings and off site affordable housing. Furthermore, small sites have a significant role to play in the delivery of new homes in this area. This would contribute to the government's target to significantly boost the supply of homes. Nevertheless, given the scale of the proposed development such benefits are modest.
18. On the other hand, the Framework states that achieving high quality, beautiful and sustainable buildings and places is fundamental to the planning and development process. It seeks to promote good design by ensuring that development is visually attractive as a result of good architecture and layout amongst other things. The scheme would not comply with this objective as it would result in notable permanent harm to the character and appearance of the area. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the modest benefits, when assessed against the policies in the Framework as a whole.

TBHSPA

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

Conclusion

20. 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