



Appeal Decision

Site visit made on 1 December 2021

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 JANUARY 2022

Appeal Ref: APP/K3605/W/21/3276416

20 Weston Avenue, West Molesey KT8 1RG

- 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 Home County Properties Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2020/1380, dated 29 May 2020, was refused by notice dated 7 December 2020.
 - The development proposed is demolition of existing house and erection of a single building with 3 no 3 bed houses together with associated parking.
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Decision

1. This appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought but with appearance and scale to be considered at this stage. I have determined the appeal on this basis.
3. A Unilateral Undertaking (UU) has been submitted which includes a mechanism to contribute towards affordable housing. I will return to this matter later in this decision.

Main Issues

4. The main issues are the effect of the proposed development on the living conditions of neighbouring occupiers with particular reference to light and any overbearing effect to 22 Weston Avenue, whether or not the proposed development would make adequate provision for affordable housing, and whether the development would be safe from flood for its lifetime without increasing flood risk elsewhere.

Reasons

Living Conditions

5. The proposed development would result in a two storey, plus pitched roof side elevation 1.2m from the boundary. There is a ground floor side window at no. 22 which faces towards this site, similarly close to the boundary which is the only window to a study. There is a 1.8m fence along the boundary. However, given its height it is likely that the room receives light over this fence. The proposed development would severely restrict the light to this window and would be overbearing.

6. It is put to me that a side extension could be constructed closer to the boundary than the existing property under permitted development. However, this would be single storey and therefore any impact would be lesser than the proposed development. Furthermore, this would not create the new dwellings sought by this application and therefore I am not persuaded that it is likely to occur.
7. Consequently, the proposed development would be overbearing and would result in inadequate daylight and sunlight at 22 Weston Avenue, harmful to the living conditions of neighbouring occupiers. Therefore, it would be contrary to Policy DM2 of the Elmbridge Local Plan Development Management Plan April 2015, which seeks high quality design including protecting the amenity of adjoining occupiers, amongst other things.

Affordable Housing

8. Policy CS21 of the Core Strategy predates the National Planning Policy Framework July 2021 (the Framework) and 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 Framework sets out that affordable housing should not be sought for residential developments that are not major developments.
9. The Council has provided evidence that there is a high level of affordable need in the Borough, the importance of small sites in delivering this, and that the requirements of this policy have been assessed from a viability viewpoint and consequently 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.
10. I am provided with a UU which aims to secure a financial contribution of around £105,000 towards the provision of off-site affordable housing. However, there are concerns about the document itself, its execution and thus whether the Council could rely on it to secure contributions. For example, it is not signed by the listed charge holders and the applicant is listed as a company but the UU is signed by an individual.
11. Therefore, the submitted UU would not make adequate provision for affordable housing. Consequently, the proposed development would not comply with Policy CS21 of the Core Strategy, the aims of which are set out above, nor the advice in the Developer Contributions Supplementary Planning Document July 2020 which provides further detail about how a mechanism to deliver affordable housing can be provided.

Flood Risk

12. The Flood Risk Assessment (September 2019) that accompanied the planning application shows that the land at the front of the appeal site including the property and its surrounding hardstanding is higher than the modelled flood level for a 0.1% annual exceedance probability (AEP) (a 1 in 1000 year flood event) at this part of Weston Road. However, land levels in the rear garden area are lower than these levels, albeit they are higher than the modelled 0.1% AEP to Bishops Fox Way, directly to the rear.
13. Based on the evidence before me, the topography of this site means that, although marginal, it would appear unlikely to flood in the event of a 1 in 1000

year flood event. Consequently, it would be appropriate to secure measures which would ensure the development would be safe from flood for its lifetime without increasing flood risk elsewhere by condition.

14. Therefore, the proposed development would be safe from flood for its lifetime without increasing flood risk elsewhere. Consequently, it would not be contrary to Policy CS26 of the Elmbridge Core Strategy July 2011 which sets out measures to reduce the overall local risk of flooding in the Borough, and the guidance in the Flood Risk Supplementary Planning Document May 2016 which advises how this can be achieved and demonstrated.

Planning Balance

15. The Council cannot demonstrate a 5 year supply of deliverable housing sites. Consequently Paragraph 11 d) of the Framework is engaged.
16. The proposed development would result in the social and economic benefits associated with the provision of three dwellings. This would contribute to the government's target to significantly boost the supply of homes. However, given the scale of the proposed development, the benefits in this regard are limited.
17. On the other hand, the lack of affordable housing provision would not address the needs of this group with a specific housing requirement, and the development would be contrary to the Framework in this respect. Furthermore, the Framework requires a high standard of amenity for existing users, and the scheme would not provide this due to the harm to the daylight and sunlight at 22 Weston Avenue. As such there are multiple factors that, overall, would result in notable harm.
18. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Conclusion

19. 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