



Appeal Decision

Site visit made on 8 November 2022

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/K3605/W/22/3298875

56 Grove Way, Esher KT10 8HN

- 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 M Daniel of D&G (Thames Ditton) Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2021/3017, dated 18 August 2021, was refused by notice dated 29 March 2022.
 - The development proposed is Demolition of fire-damaged house and removal of TPO tree; construction of two semi-detached dwellings and one detached dwelling with associated infrastructure works, landscaping and replacement tree planting.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking (UU) has been submitted which includes a mechanism to contribute towards affordable housing. I will return to this matter later in my decision.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area including trees and on the living conditions of neighbouring occupiers with particular regard to 16 Cranbrook Drive and 54 Grove Way.

Reasons

Character and Appearance

4. Grove Way and Cranbrook Drive are characterised by generally detached houses, within spacious plots with generous rear gardens. The detailed design of properties in Grove Way differs, although there is more consistency along Cranbrook Drive. Here, properties are set along a clear building line and front gables are a prominent feature. Nevertheless, the shared characteristics result in a pleasantly consistent pattern of development and sense of openness in this area.
5. 56 Grove Way is on a corner plot and its rear garden extends along Cranbrook Road where there is access to a single storey garage. It has been damaged by fire and is uninhabitable. However, the original building appears to have been similar to that at no. 54 and reflected the positive characteristics described above.

6. In the vicinity, properties have been built to the rear of dwellings in Grove Way (17a¹, and Iris and Violet House², Cranbrook Drive). However, although the width of 17a is similar to plot 3, and the overall plot for Iris and Violet House is smaller than the appeal site, the plots for these developments span the rear gardens of two properties. As such their rear gardens maintain a sense of spaciousness appropriate to the existing character of the area described above.
7. The proposed development would subdivide the existing single plot into three separate dwellings. The proposed dwellings' separation to side boundaries would be broadly similar to others nearby. However, they would have much smaller curtilages. This is particularly evident in plot 3 where the property would be close to the rear boundary with a very limited rear garden. This property would also sit noticeably forward of the building line along Cranbrook Drive, increasing the prominence of its uncharacteristically cramped layout. The proposed development would therefore harmfully undermine the pattern of development and sense of spaciousness in this area.

Trees

8. This part of Grove Way and Cranbrook Drive have trees on the grass verges on both sides, creating an attractive leafy green feel. This is enhanced by the soft landscaped front gardens.
9. There is a Blue Atlas Cedar in the front garden of the host property and this is clearly visible in the streetscene. However, this tree has been topped and pruned which results in a very lop sided crown. Furthermore, I have detailed evidence before me that this tree is vulnerable to further loss of branches and its life expectancy is also limited. As such, it does not make a significant contribution to the verdant character of the area. A replacement tree in a comparably prominent position could similarly conserve the green character and appearance of the area in the longer term and this could be secured by condition.

Summary

10. Consequently, the proposed development would have an acceptable effect on the character and appearance of the area with regard to trees. Therefore, I do not find conflict with Policy DM6 of the Elmbridge Local Plan Development Management Plan 2015 (DMP). This states that development proposals should not result in the loss of trees which are capable of making a significant contribution to the character and appearance of the area.
11. However, the lack of harm in this regard is a neutral factor. As such, it does not alter the fact that there would be a harmful effect on the character and appearance of the area with regard to the proposed dwellings. Consequently, in this respect, the proposed development would be contrary to policies CS17 of the Elmbridge Core Strategy (2011) (CS) and DM2 of the DMP. Together these require that new development should consider local character and integrate sensitively with the townscape, with particular regard to the prevailing pattern of built development amongst other things. It would also be contrary to the advice in the Design and Character Supplementary Planning Document (2012) (SPD) which provides detailed advice to secure high quality development that respects local character.

¹ LPA ref 2003/2351

² LPA ref 2018/3759

Living Conditions

12. There are four windows along the first floor side elevation of 16 Cranbrook Road. Two of these serve a bathroom/WC and one is obscure glazed and is likely to serve a hallway. The other is a bedroom window, and appears to be the only window serving this room.
13. The side elevation of plot 3 plus the pitched roof above would be directly in front of the bedroom window and in close proximity at around 4.5m away. This would result in a very limited outlook from this room. Whilst there would not be any harm to the light to this room, nevertheless, due to the proximity, height and location the proposed development would result in unacceptable outlook and an overbearing effect on this property.
14. The proposed development would also create two first floor windows to a bedroom at plot 3, close to the boundary with 54 Grove Way. This would result in views to the rear part of this neighbouring garden. However, the garden to 54 Grove Way is already somewhat overlooked by first floor windows at both 52 and 56 Grove Way and 16 Cranbrook Road. Other windows on the elevation facing towards No 54 would be at an angle, some distance away and with obscure glazing. Consequently, the proposed development would not lead to a harmful loss of privacy over and above the existing situation.
15. Plot 2 would not extend significantly beyond the rear elevation of no. 54, and plot 3 would be along only the rearmost part of the garden. As such the proposed development would not be so harmfully overbearing as to result in inadequate living conditions for the occupiers of this neighbouring property.
16. Although I do not find harm to living conditions at No 54, this does not outweigh the harmfully overbearing effect and harm to outlook to 16 Cranbrook Road. Consequently the proposed development would have a harmful effect on living conditions. As such, in this respect it would be contrary to Policy DM2 of the DMP which seeks to protect the amenity of adjoining occupiers. As well as to the advice in the SPD which provides guidance on considering amenity issues.

Other Matters

Affordable Housing

17. Policy CS21 of the CS 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 National Planning Policy Framework July 2021 (the Framework) which states that affordable housing should not be sought for residential developments that are not major developments.
18. 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 viability assessments can be used where applicants consider the contributions to make the development unviable. Consequently, this does 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.

19. I am provided with a UU which includes a financial contribution of around £120,000 towards the provision of off-site affordable housing, which the Council is satisfied represents a contribution in line with CS21 and I have no reason to disagree with this assessment. Consequently, I am satisfied that the contribution proposed is reasonable. Whilst the contribution towards off site provision is an important social benefit, there would be no affordable housing provided on site.

Planning Balance

20. The Council cannot demonstrate a 5 year supply of deliverable housing sites. Consequently Paragraph 11 d) of the Framework is engaged.
21. The proposed development would provide the social and economic benefits associated with the provision of three dwellings, partly on previously developed land in a residential area, of a size for which there is an identified need. This would contribute to the Government's target to boost the supply of homes. It would not provide affordable housing on the site, although it would make a contribution to off site provision and this is an important social benefit. However, given the scale of the proposed development, the contribution towards addressing the needs of groups with specific housing requirements would be moderate.
22. On the other hand, I have identified multiple harms with regard to both the effect of the development on the character and appearance of the area, and the harmful effect on the living conditions of nearby occupiers. This would be contrary to the Framework's requirement for a high standard of amenity for existing users and well designed places which are sympathetic to local character. Therefore, in combination, these multiple harms would be considerable.
23. Consequently, taking into account that the benefits would only be moderate, even if the extent of the undersupply of deliverable housing sites was significant, in this case the adverse impacts identified would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the appeal scheme would be contrary to the aims of the Framework, and the presumption in favour of sustainable development does not apply.

Conclusion

24. 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 the appeal should be dismissed.

H Miles

INSPECTOR