



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: 1 December 2022

Appeal Ref: APP/K3605/W/21/3283101

31 Stevens Lane, Claygate, Esher KT10 0TD

- 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 & Mrs Jon & Tracey Gullis & Rogers against the decision of Elmbridge Borough Council.
 - The application Ref 2021/0988, dated 15 March 2021, was refused by notice dated 23 August 2021.
 - The development proposed is refurbishment of existing dwelling and construction of 3 new dwellings.
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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 this decision.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, including with regard to trees, and whether the proposed development would make adequate provision for affordable housing.

Reasons

Character and Appearance

4. Stevens Lane is characterised by mainly large, detached dwellings. On the eastern side properties are set back from the road with generous front gardens generally used for car parking and soft landscaping. In the vicinity of the appeal site, properties are set at an angle to the road. However, 31 Stevens Lane does not follow this pattern of development. It is a larger house, with a very generous front garden resulting in a significant set back from the street, which is unusual in this area.
5. Raymond Way is a cul de sac also characterised by two storey detached dwellings. Properties are arranged around a turning circle at the end of the road and buildings do not have a consistent front building line. 31 Stevens Lane has a garage and vehicle access from this road and is set back behind a landscaped side garden and hedge.

6. The new dwellings proposed appear as two detached buildings set at an angle to the road, in common with other houses in the streetscene with a set back from the road similar to the neighbouring dwelling at 1 Raymond Way. As such the siting and design of these buildings would be in keeping with the pattern of development. The materials proposed include cladding. Cladding is found on the host property as well as neighbouring The Laurels. Consequently, this is not an alien feature in this location.
7. The development would retain the existing front hedge, and some planting is also proposed around the edges of the properties, details of which would be secured by condition. This would ensure that the hardstanding to the front would not be unacceptably dominant.
8. The proposed development also seeks changes to the host dwelling, introducing windows and a front door to its southern elevation, with its only access from Raymond Way. Despite the fact that a front door is retained to the westerly elevation, the lack of connection with Steven's Lane leads me to find that the land on which the three new dwellings are proposed would no longer be read as a front garden.
9. The host property and its drive are already part of the pattern of development in Raymond Way. Although the alterations proposed would make this the only road frontage for the host dwelling, even with the proposed alterations to fenestration and landscaping, this would not significantly alter the building's relationship with this streetscene.

Trees

10. Stevens Lane appears as a leafy, green road and the trees and hedges in front gardens and those which form the front boundary treatment make a positive contribution to its character in this respect.
11. The proposed development would result in the loss of an Oak tree in the front garden which is identified as being of moderate quality and value, but does not have a Tree Protection Order. However, even though it is set back from the road, this tree is visible from the surrounding area and provides a positive contribution to this leafy setting. As such, its loss would result in a reduction of the attractive green characteristic of Steven's Lane.
12. A condition is suggested which would secure planting of new trees on the site. Whilst they would go some way to offset the harm to the green character of the area as a result of this development, they are unlikely to be of a similar age and size, or as prominent a position as the Oak. The plans show that trees have been planted in the adjoining plot of land. However, these are an existing part of the character and appearance of the area and do not form part of the scheme before me now.
13. The category A pine tree to the rear garden would be retained, as well as the majority of hedges and this would be secured by condition. Whilst this would reduce the extent of the tree loss, it would not overcome the harm identified above. Therefore, the loss of the Oak tree would result in harm to the character and appearance of the area.

Summary

14. Consequently, the proposed development would have an acceptable effect on the character and appearance of the area with regard to the built form. As such, in this regard, I do not find conflict with Policies CS11 and CS17 of the Core Strategy 2011 (CS) and Policy DM2 of the Development Management Plan 2015 (DMP) which together provide considerations to achieve high quality design, including within Claygate.
15. However, the lack of harm in this regard does not alter the fact that there would be a harmful effect on the character and appearance of the area with regard to trees. As such, the proposed development would be contrary to Policy DM6 of the DMP which, in part, require that proposals should not result in loss of trees that make a significant contribution to the character and appearance of the area.

Affordable Housing

16. 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.
17. 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 the use of 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.
18. I am provided with a UU which aims to secure a financial contribution of around £131,000 towards the provision of off-site affordable housing. This corresponds with the amount set out in the Officer's Report as being policy compliant with Policy CS21. However, there are concerns about the document itself and 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. A positively worded condition which requires the submission of a completed planning obligation would not pass the test of enforceability. Therefore, there is no mechanism before me now which would secure a contribution towards off-site affordable housing.
19. Therefore, the proposed development 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.

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 result in the social and economic benefits associated with the provision of three new 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 modest.

22. 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. I have also identified harm to the character and appearance of the area through tree loss. This is contrary to the aims of the Framework to retain existing trees wherever possible. As such there are multiple factors that, overall, would result in notable harm.
23. 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

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 this appeal should be dismissed.

H Miles

INSPECTOR