



Appeal Decision

Site visit made on 21 November 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th December 2022

Appeal Ref: APP/K3605/W/22/3290400

85 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 GH Investments against the decision of Elmbridge Borough Council.
 - The application Ref 2020/3289, dated 22 November 2020, was refused by notice dated 12 November 2021.
 - The development proposed is roof extension incorporating increase in roof ridge height of 2.1m to create 1 additional dwelling incorporating front balcony, bin and cycle stores and alterations to fenestration following removal of existing external staircase.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the appeal form as this more accurately describes the proposal following the receipt of amended plans during the course of the planning application.
3. The appellant has submitted additional information in the form of a financial viability appraisal. This does not represent a significant change to the proposal and seeks to address the second reason for refusal. Whilst they have chosen not to do so, the Council have had opportunity to comment on this report. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to the submitted report in determining this appeal.
4. 2 Unilateral Undertakings (UU) have been submitted: one which includes a mechanism to contribute towards Strategic Access Management and Monitoring (SAMM) and one which includes a mechanism to contribute towards SAMM and affordable housing. The Council have been given the opportunity to comment on these UUs. On this basis, I do not consider that any party would be unfairly prejudiced, and I therefore have had consideration to these in my decision. I will return to this matter later in my decision.
5. At the time of my site visit a structure was in place on the roof of the appeal property to indicate the extent of the proposed extension. Nonetheless, as I was unable to verify the accuracy of this structure in relation to the submitted plans it has not had any bearing on my assessment of this appeal.
6. I was invited to view the proposal from 87a Queens Road. However, at the time of my site visit no-one was present to allow me access to that

neighbouring site. Nevertheless, I am content that I can assess the main issues in dispute.

Main Issues

7. The main issues are:

- The effect of the proposal on the character and appearance of the area;
- Whether the proposal makes appropriate provision for affordable housing; and
- Whether the proposal makes adequate contributions towards Strategic Access Management and Monitoring (SAMM).

Reasons

Character and appearance

8. The appeal property is 85 Queens Road, a 3-storey building located within a row of commercial properties within the Queens Road local centre in Weybridge. There is a variation in building heights within the row and most of the buildings are located at the edge of the footpath. The appeal property differs from other properties in the row as it is a taller, flat roof building with elongated windows to the front facade and is set back from the footpath. Nonetheless, the appeal property makes a positive contribution to the varied, commercial character of the surrounding area.
9. The proposal would provide a one-bedroom flat with a mansard roof on the roof of the building. This would increase the height and massing of the building resulting in a building which would be significantly taller than the two storey commercial buildings within this row. The proposed extension would detract from the existing simple, uncluttered roof design and would be visible in views in both directions along Queens Road. Whilst the impact of the extension would be most visible from the opposite side of Queens Road within an area localised to the appeal site where the extension would be seen in the context of the surrounding, varied roofscape, nonetheless in such views it would appear as a prominent and incongruous feature which would be harmful to the character and appearance of the host building.
10. An appeal at the same property for the erection of a mansard roof to create a 2-bedroom flat was dismissed in 2021¹. The appellant has sought to address the issues raised in this appeal by setting the mansard roof back from the front elevation behind a parapet. However, as the roof of the extension would remain visible from the street, and for the foregoing reasons, the scheme would still in my view be unacceptable overall.
11. For the reasons outlined above, the proposal would cause harm to the character and appearance of the host building. Therefore, the proposal would not accord with those aims of Policy DM2 of the Elmbridge Development Management Plan (2015) (DMP) or Policies CS4 and CS17 of the Elmbridge Core Strategy (2011) (ECS). Collectively these policies seek that all new development be well designed, integrate with, and enhance local character with particular regard to, amongst other matters, appearance, scale, mass, height and the character of the host building. I also find conflict with the Design and

¹ Appeal reference APP/K3605/W/20/3259760

Character Supplementary Planning Document (2012) which has similar aims and the National Planning Policy Framework (The Framework) which seeks to ensure development is well designed and sympathetic to local character.

12. Whilst referred to by the Council in their reason for refusal DMP Policy DM12 relates to the protection, conservation and enhancement of the borough's historic environment and heritage assets. Whilst this policy lists locally listed buildings as heritage assets I have not been presented with any compelling evidence that the appeal property is locally listed. Thus, the content of this policy is largely irrelevant to this proposal or the specific harm I have identified.

Affordable housing

13. ECS Policy CS21 requires that for this development a financial contribution equivalent to the cost of 20% of the gross number of dwellings should be provided. This is elaborated on in the Developer Contributions Supplementary Planning Document (2020) (DCSPD). However, the policy pre-dates the Framework which states that affordable housing should not be sought for residential developments that are not major developments.
14. The Council has provided me with 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. ECS Policy CS21 goes on to state that in the exceptional circumstances where it is considered that the delivery of affordable housing in accordance with the policy is unviable, this must be demonstrated through the submission of a financial viability appraisal (FVA) alongside a planning application. The appellant has not objected to the application of ECS policy CS21. Indeed, it has submitted a FVA to justify the lack of any provision or contribution to affordable housing. On this basis, I can see no reason why ECS policy CS21 should not apply to the development in this proposal.
16. The planning application was not supported by a FVA; however, one has been provided as part of the planning appeal. The Council state that such information must be submitted at the time the application is registered to be taken into consideration, referring to their validation checklist which sets out that once an application has been registered there will be no further opportunity to contend the viability of the development. It is also stated that payment for review of the viability appraisal should be made to the Council to allow for independent scrutiny of the assessment. The Council state that this payment has not been received. Consequently, the Council have not provided any comments on the FVA.
17. Notwithstanding the wording of the Council's validation checklist and the lack of payment for the Council's independent scrutiny of the FVA, the Council have had the opportunity to review and comment on the FVA and haven't done so. The appellant's FVA confirms that the development cannot viably provide contributions towards affordable housing. In the absence of any evidence to the contrary, I find no reason to disagree with this assessment. Therefore, contributions towards affordable housing are not required in this instance.

18. Notwithstanding the above, the appellant has provided 2 UUs, one of which would secure affordable housing if deemed necessary. Irrespective of that I find that the evidence submitted shows that the scheme cannot viably make contributions towards affordable housing. No evidence to the contrary has been provided to draw me away from this conclusion. Therefore, such a legal agreement to deliver affordable housing contributions is not required in this instance.
19. On balance of the above, the proposal accords with those aims of ECS Policy CS21 which seek a financial contribution equivalent to the cost of 20% of the gross number of dwellings where viable. I also find no conflict with the DCSPD which has similar aims.

SAMM contributions

20. The appeal site is within the 400m-5km Buffer Zone of the Thames Basin Heath Special Protection Area (SPA). In such circumstances the DCSPD requires that any additional residential development will need to provide a financial contribution towards the SAMM measures. The DCSPD goes on to state that a financial contribution towards SAMM has to be secured by a legal agreement prior to determination of the relevant application.
21. The Council confirm that the required contribution for the proposal towards the SAMM measures is £650.00. A UU has been provided which includes a contribution of £670.00. Whilst this exceeds the contributions as set down in the DCSPD, nonetheless I note that appropriate provision has been made for SAMM contributions within a UU.
22. Therefore, the proposal accords with those aims of ECS Policy CS13 which, amongst other matters, require that new residential development which is likely to have a significant effect on the ecological integrity of the Thames Basin Heaths Special Protection Area (SPA) will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects. I also find no conflict with the DCSPD, which sets out the required contributions for development proposals and states that these contributions should be secured by a legal agreement.

Other Matters

23. The appeal site is within the 400m-5km Buffer Zone of the Thames Basin Heath Special Protection Area (SPA) in which proposals including a net gain in residential development have the potential to give rise to significant effects including harm to rare bird populations. Notwithstanding the UUs received in relation to this proposal which make provision for contributions towards SAMM in the SPA, as I have found harm in relation to the first main issue it is not necessary in this instance to undertake an appropriate assessment to consider the effect on the SPA.
24. The proposal is likely to be able to meet with the relevant local and national policies in terms of the internal living environment. Additionally, the Council found that the proposal would not result in harm to the living conditions of the occupiers of neighbouring properties. However, the absence of harm in these regards does not weigh in favour of the proposal, as it would be required in any event.

Planning Balance

25. The Council has confirmed that it is not able to demonstrate a five-year supply of deliverable housing sites and is unable to identify sufficient housing land supply. I have no reason to take an alternative view. As the proposal involves the provision of housing, Footnote 8 of the Framework indicates the most important policies for determining the appeal are deemed to be out of date and paragraph 11. d) ii. of the Framework is engaged. This requires that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. I have found that the proposal would result in harm to the character and appearance of the appeal property. Therefore, the proposal conflicts with those aims of ELP Policy DM2 and ECS Policies CS4 and CS17.
27. Good design, including consideration of the effects on character and appearance, is also a key aspect of sustainable development. Consequently, the proposal would conflict with the development plan when taken as a whole. Given the consistency between the policies with which a conflict has been identified and the Framework I give substantial weight to this conflict.
28. The proposal would make a small contribution towards the borough's housing supply on a small brownfield site with good access to facilities and public transport. This would contribute to the Government's objective to significantly boost the supply of homes and would meet an identified local housing need for one-bedroom properties. This factor weighs in favour of the scheme. There would be short-term economic benefits associated with construction and Council tax revenues in the longer term. Given the limited scale of the development I attach limited weight to the development's positive contributions to the social and economic objectives of the Framework.
29. However, the adverse impact which I have identified to the character and appearance of the appeal property would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework. Consequently, the decision should be taken in accordance with the development plan with which I have identified conflict.

Conclusion

30. The appeal proposal would result in harm to the character and appearance of the appeal property. Consequently, it fails to accord with the development plan taken as a whole. Therefore, for the reasons given above, the appeal should be dismissed.

Nichola Robinson

INSPECTOR