



Appeal Decision

Site visit made on 22 November 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2022

Appeal Ref: APP/K3605/W/22/3300457

29 The Grove, Walton-on-Thames, KT12 2HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Surrey Property & Homes Ltd against Elmbridge Borough Council.
 - The application Ref 2022/0083 is dated 13 January 2022.
 - The development proposed is erection of a pair of semi detached dwellings and 1 x 3 bed detached dwelling following the demolition of the existing bungalow.
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Decision

1. The appeal is dismissed and planning permission for the erection of a pair of semi detached dwellings and 1 x 3 bed detached dwelling following the demolition of the existing bungalow at 29 The Grove, Walton-on-Thames KT12 2HP is refused.

Preliminary Matters

2. The Council failed to determine the application within the prescribed period. Following the submission of the appeal, the Council have prepared an appeal statement which advises that had the Council determined the application, planning permission would have been refused. Putative reasons for refusal are given and identify that the principal concerns relate to the below main issues.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of 27 The Grove with particular regard to loss of light and outlook;
 - The effect of the proposal on highway safety; and
 - Whether the proposal makes appropriate provision for affordable housing

Reasons

Character and appearance

4. The appeal dwelling is a hipped roof bungalow located within a residential street with dwellings which are set back from the highway within spacious plots. It is one in a row of bungalows which have a deeper set back than other dwellings in the road. Dwellings within The Grove vary in architectural style and

materials and many have a hipped roof. Most are single or two storeys in height, with the exception of a 3-storey residential block at the junction of The Grove and Grove Crescent, which has a hipped roof and is set within a spacious plot and consequently harmonises with the form and layout of dwellings in the surrounding area. Planting within the street and private front gardens gives the area a noticeable green and spacious character.

5. An access track runs to the rear of the site, providing access to the rear elevations of properties on The Grove and Carlton Road, including a number of outbuildings and garages, and 3 single storey dwellings. These outbuildings are located close to the track. Consequently, this track has a varied and functional character.
6. The proposal would replace an existing bungalow with a pair of semi-detached dwellings and erect a third dwelling within the rear garden, which would be accessed from the track. The proposed semi-detached dwellings would be 2 storeys in height with a pitched roof and further accommodation within the roof space. The rear dormer bungalow would also incorporate accommodation in the roof space.
7. Plots 1 and 2 would continue the building line of the row of 2-storey dwellings to the southeast of the site projecting forward of the existing row of bungalows. The proposed dwellings would be a similar height to the neighbouring hipped roof property, with a similar ridge and eaves height. However, the pitched roof and width of the building would result in a bulky proposal dominated by roof form. Furthermore, the siting of the entrances to the side of the dwellings would fail to break up the mass of the front elevation of this dwelling. Consequently, it would fail to relate to the form of the predominantly hipped roof surrounding dwellings.
8. Plots 1 and 2 would occupy most of the plot width with limited separation to the site boundary, resulting in a cramped form of development which would detract from the generally spacious character and appearance of the appeal site and the surrounding area. The forward projection would result in a bulky exposed side elevation which would dominate views from the northwest of The Grove. The proposed dwellings would therefore appear prominent within the street scene, where their siting and form would be out of keeping with the character of the surrounding area.
9. Plot 3 would be a similar height to the neighbouring dormer bungalow 27 The Grove, the roof of which can clearly be seen from the track. The proposed dwelling would be consistent with the design of this property and would appear to be of a similar scale to other dwellings located on this track¹. Therefore, plot 3 would be consistent with the varied and functional character which surrounds this part of the site.
10. Whilst I have found that the siting, appearance and form of plot 3 would be consistent with the character and appearance of the surrounding area, proposed plots 1 and 2 would fail to integrate with the character and appearance of the surrounding area. Therefore, the proposal conflicts with those aims of Elmbridge Core Strategy (2011) (ECS) Policy CS17 and Elmbridge Development Management Plan (2015) (DMP) Policies DM2 and DM10 which state that new development will be required to deliver high quality

¹ As shown on FLU.1487.08

and inclusive sustainable design and should enhance the street scene based on an understanding of local character and respect the character of the area. I also find conflict with the design principles set out in the Design and Character Supplementary Planning Document (2012) which has similar aims and the National Planning Policy Framework (the Framework) which, amongst other matters, seeks to ensure development is well designed and sympathetic to local character.

11. Whilst referred to by the Council in the reason for refusal I find no conflict with those aims of ECS Policy CS3, which guide the strategic principles for development in Walton-on-Thames. The content of this policy is therefore largely irrelevant to this proposal and the specific harm I have found.

Living conditions

12. The front elevations of proposed dwellings 1 and 2 would be positioned forward of the front elevation to 27 The Grove. The 2-storey height of these proposed dwellings, their position within the plot and the limited separation to the site boundary would result in loss of daylight and sunlight to windows in the front and side elevations of 27 The Grove. Given the orientation of these windows this loss of light would occur throughout the day. The proposed dwellings would appear overbearing in views from the windows in the front elevation of 27 The Grove and this, along with the reduction in daylight levels, would make the rooms which these windows serve an unpleasant space in which to spend time, to the detriment of the living conditions of the occupants of this dwelling.
13. For the foregoing reasons I find that the proposal harms the living conditions of the occupants of 27 The Grove through a reduction in light levels and loss of outlook. Therefore, the proposal conflicts with those aims of DMP Policy DM2 and ECS Policy CS17 which, amongst other matters, require that proposals should protect the amenity of adjoining and potential occupiers and users. I also find conflict with the Home Extensions Companion Guide Supplementary Planning Document (2012) which has similar aims, and the Framework, which states that decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Highway safety

14. The frontage of the appeal site is located on The Grove, and the rear is served by a narrow track which is accessed from Carlton Road. The appeal site is located at the end of this track, in excess of 100 metres from Carlton Road. The track serves 3 bungalows and the rear of dwellings on The Grove and Carlton Road. During my morning site visit there was a steady flow of traffic and pedestrians on The Grove and Carlton Road and use of the access track by vehicles and pedestrians was limited. Whilst a snapshot in time, there is nonetheless nothing in the evidence before me to indicate those observations are atypical of the area.
15. Access to plots 1 and 2 would be from The Grove and plot 3 would be accessed from a track off Carlton Road. The proposed layout does not demonstrate that there is adequate space for vehicles to turn and exit plot 3 in a forward gear, in particular when both parking spaces are in use. In such circumstances vehicles accessing the site would be required to reverse over 100 metres along the track and reverse out onto Carlton Road. Whilst I observed that the number of vehicles and pedestrians using this track is likely to be limited, nonetheless

such movements would introduce an increase in potential for conflict between road users and pedestrians along the track and at the junction with Carlton Road with the potential for knock on implications for highway safety on the track and Carlton Road.

16. Furthermore, the Council raise concerns regarding the capacity of the track to provide access for the emergency services and refuse trucks. The appellant notes that this track is in current use by vehicles accessing 3 existing dwellings and refuse vehicles. Additionally, it is stated that the proposal would be served by a sprinkler system. The Council state that this access off Carlton Road is not suitable for a collection vehicle and is further than crews would be expected to walk and collect a bin. Based on the information before me and my observations on site it has not been adequately demonstrated that the track has the capacity to accommodate access for a refuse truck or large emergency services vehicles. Therefore, plot 3 would fail to provide accessible bin storage. Furthermore, emergency services vehicles accessing the site would increase the potential for conflict between road users and pedestrians along the track and at the junction with Carlton Road, with the potential for knock on implications for highway safety.
17. I therefore conclude that the proposal would have a harmful effect on the safety of road users and pedestrians using the track and Carlton Road. This would be contrary to those aims of DMP Policies DM7 and DM8 which collectively require that access to and from the highway should be safe and convenient for pedestrians, cyclists and motorists, provisions for loading, unloading and the turning of service vehicles are expected to be designed into the scheme ensuring highway and pedestrian safety and storage points for refuse and recycling are accessible for collection vehicles as well as regular users. I also find conflict with those aims of the Parking Supplementary Planning Document (2020) which has similar aims.

Affordable Housing

18. 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.
19. 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.
20. 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 appraisal alongside a planning application.
21. The appellant has not objected to the application of ECS policy CS21. Indeed, it has submitted a Financial Viability Appraisal (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.

22. A FVA was submitted with the application. Both parties agree that the proposal could not support making a policy-compliant contribution 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.
23. Notwithstanding the above the Council state that where a FVA demonstrates that the scheme cannot provide a contribution a legal agreement would be required to secure a review mechanism. This requirement is set out in the DCSPD which states "All development proposals that do not provide the policy required level of affordable housing contribution at the application stage will be subject to a late review mechanism, which will be secured prior to grant of permission through a legal agreement". Such a review mechanism is therefore necessary to ensure compliance with the DCSPD in terms of affordable housing delivery, which itself guides on the implementation of ECS Policy CS21.
24. This proposal is not supported by a legal agreement setting out a review mechanism. Therefore, the proposal fails to comply with those aims of ECS Policy CS21 which seek to provide affordable housing where viable and conflicts with the DCSPD which has similar aims and states that such proposals that do not provide the required level of affordable housing contribution will be subject to a late review mechanism, secured through a legal agreement.

Other Matters

25. I note that the appellant states that the proposal has been amended from an earlier submission, and that it is claimed that the interim response from the Council did not raise concerns with the principle of development or neighbouring residents' living conditions. Nonetheless, I am tasked with determining the appeal before me and I have found conflict with the development plan in relation to the above main issues.

Planning Balance

26. 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.
27. I have found that the proposal would result in harm to the character of the area, the living conditions of the occupants of 27 The Grove, and would result in a harmful effect on the safety of road users and pedestrians. The proposal would also fail to secure an affordable housing review mechanism through a legal agreement. The proposal therefore conflicts with those aims of ECS Policies CS12 and CS17 and DMP Policies DM2, DM7, DM8 and DM10.
28. When judged against some of the core planning principles the proposal would perform well in that it would be in an urban area where access to facilities is

likely to be greatest. However, good design, including consideration of the effects on the character and appearance of the area, highway safety and living conditions of the occupiers of neighbouring dwellings, 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.

29. I acknowledge that the net additional 2 dwellings would make a small contribution towards the borough's housing supply. The Framework's objective is to significantly boost the supply of homes and to make an effective use of land. This factor weighs in favour of the scheme. Given the shortfall in the Council's five-year housing land supply, I attach moderate weight to the development's positive contribution to the social and economic objectives of the Framework. There would also be short-term economic benefits associated with construction and council tax revenues in the longer term.
30. However, the adverse impact which I have identified in relation to the main issues 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. Consequently, the decision should be taken in accordance with the development plan, with which I have identified conflict.

Conclusion

31. For the reasons given above I conclude that the appeal should be dismissed and planning permission refused.

Nichola Robinson

INSPECTOR