



Appeal Decision

Site visit made on 4 May 2023

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/K3605/W/22/3301813

51 Monks Avenue, West Molesey KT8 2HD

- 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 Brass Architecture against the decision of Elmbridge Borough Council.
 - The application Ref 2021/3950, dated 15 November 2021, was refused by notice dated 23 May 2022.
 - The development proposed is described as the internal remodelling of existing main single storey dwelling. Addition of 1 no. new single storey 2 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The subdivision of the plot and some development to the existing dwelling appears to have been started. I am not aware of the lawfulness of these changes, however, my assessment of the proposal is based on the plans before the Council at the time of the planning application. I will therefore refer to the 'proposed' throughout my decision, regardless of what has been undertaken on site.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of residential occupants with particular reference to light and outlook;
 - Flood risk;
 - Wildlife, habitats and protected species; and
 - The provision of affordable housing.

Reasons

Character and Appearance

4. The appeal site and its immediate environs comprise lower scaled dwellings with generally open gardens behind. This open character to the rear of these dwellings makes a positive contribution to the street scene at this end of Monks Avenue.

5. The proposed dwelling would be broadly sited behind 51 Monks Avenue but also between No 51 and 49 Monks Avenue. Given the gap between Nos 49 and 51, the proposed dwelling would be visible when experienced from the street scene.
6. While subordinate extensions and outbuildings may be present at neighbouring properties, the siting, scale and size of proposed development would, in combination, be more significant than these subordinate structures.
7. As a result, this would visually close the gap between Nos 49 and 51, and would appear cramped when set against the site layout, local pattern of development and open character of the area. The proposed roof form would also fail to respond to the local character, and this would exacerbate the harm identified further.
8. Accordingly, this would create a sense of overdevelopment failing to integrate into the more open street scene and would unacceptably harm the character and appearance of the area.
9. I appreciate the design of the proposed development follows previously refused planning applications as well as pre-planning meetings. However, I have considered the proposal on its own merits as set out above.
10. It has also not been clearly demonstrated that permitted development rights exist at this site for a larger rear extension or an upwards extension. Such extensions would be subject to limitations and conditions. Given the lack of evidence demonstrating compliance with these limitations and conditions, this has limited bearing on my overall findings in respect to this main issue.
11. As such, the proposed development would unacceptably conflict with the relevant provisions of Policies CS3 and CS17 of the Elmbridge Core Strategy 2011 (the CS), Policy DM2 of the Elmbridge Development Management Plan 2015 (the DMP), the National Planning Policy Framework (the Framework) and the Elmbridge Design and Character SPD 2012. These, amongst other things, seek to promote high quality design which responds to local distinctiveness.

Living Conditions

12. Drawing 3067-P-110, Main Dwelling Proposed Ground Floor Plan, shows that No 51 would have several sources of light and outlook serving the living, dining and kitchen area. Two windows would be located on the rear elevation with a further window on the side elevation.
13. There is no evidence before me to suggest this drawing would not be implemented. I therefore conclude that the rooms at No 51 would not suffer any unacceptable loss of light or outlook even if the closest windows breach 45-degree sightlines.
14. The proposed garden area of No 51 would taper toward its rear end reducing rearward outlook. The proposed dwelling would be sited close to the shared boundary with No 51's, extending a considerable distance along this boundary.
15. Given this relationship and the tapered garden design, the proposed development would appear unacceptably overbearing when viewed from the primary garden areas of No 51, resulting in a loss of outlook. In addition, it has

not been clearly shown that the proposed dwelling would not unacceptably harm light entering the garden area of No 51.

16. The proposed development would bring built form closer to the shared boundary with 49 Monks Avenue. The Council accept there would be a minor breach in 45-degree sightlines when taken from the closest window at No 49, however, the scale, design and siting of the proposed development would avoid any unacceptable loss of outlook or light at No 49. Following my site visit, I would agree with the Council's findings in this regard.
17. 10 The Dene is located to the rear of the development site and is sited on higher ground. While the development would come closer to No 10, it would still be located a reasonable distance from the rear elevation of this neighbouring dwelling. Given the single storey nature of the proposed development, its siting, design and the change in land levels, the proposed development would not result in any unacceptable loss of outlook or light at No 10.
18. Any removal of trees and landscaping could be adequately mitigated by a proposed soft landscaping condition. Had this appeal been acceptable in all other regards such a condition could have been imposed to agree an appropriate scheme.
19. However, and notwithstanding my findings in respect to 49 Monks Avenue and 10 The Dene, the proposed development would have an unacceptable impact on the living conditions of the residential occupants at 51 Monks Avenue with particular reference to light and outlook.
20. The proposal would therefore unacceptably conflict with the relevant provisions of Policy DM2 of the DMP and the Framework. These, amongst other things, address the need for high quality design therefore respecting the living conditions of residential occupiers.
21. It is not clear how the Home Extensions Companion Guide SPD 2012 relates to a development for a new dwelling. I have therefore not referred to it in coming to my decision on this main issue.

Flood Risk

22. The Council confirm the appeal site is located within Flood Zones 2, 3 and 3b. Policy CS26 of the CS states that development must be located, designed, and laid out to ensure that it's safe; the risk from flooding would be minimised whilst not increasing the risk of flooding elsewhere; and that residual risks are safely managed. Policy CS26 also requires Sustainable Drainage Systems to be provided on new developments.
23. The appellant submitted a Flood Risk Assessment (FRA) with the application. However, this refers to other development unrelated to the current proposal. The FRA also contains limited reference to Sustainable Drainage Systems, a personal flood plan or appropriate escape routes.
24. The FRA also makes reference to unrelated development which is not proposed as part of the current appeal, such as proposing sleeping accommodation on first floors. Accordingly, I cannot say with confidence that such flooding risks have been accurately considered and managed appropriately for the proposed development.

25. The proposal would therefore unacceptably conflict with the relevant provisions of Policy CS26 of the CS, the Framework or the Flood Risk Supplementary Planning Document 2016. These, amongst other things, seek to reduce the risk of flooding.

Wildlife, Habitats and Protected Species

26. Policy CS15 of the CS and DM21 of the DMP seek to conserve and enhance biodiversity. Limited biodiversity evidence has been submitted to show that the proposed development would be compliant with these policies.
27. The appellant has suggested that these matters could be controlled via a planning condition. However, I note that there is habitat on site that could support biodiversity including protected species. If I were to adopt this approach, the full impact of the proposal on wildlife, habitats and protected species would not be known before planning permission is granted.
28. For the above reasons, and in the absence of evidence to the contrary, it has not been clearly demonstrated there would be conservation or enhancement of wildlife, habitats and protected species. The proposal would therefore unacceptably conflict with the relevant provisions of Policy CS15 of the CS, DM21 of the DMP and the Framework. These, amongst other things, seek to conserve and enhance biodiversity.

Affordable Housing

29. Policy CS21 of the CS set targets for affordable housing. However, the Framework sets out that affordable housing should not be provided in minor residential developments, and this is an important consideration.
30. The Council has demonstrated that there is currently a high level of affordable need in the borough and small sites make a significant contribution to housing delivery. Moreover, the Council confirm the requirements of this policy have been assessed from a viability viewpoint and have not negatively impacted on development coming forward on small sites.
31. Therefore, based on this specific local evidence, the Framework's provisions do not outweigh the development plan in this instance. Consequently, while the CS was adopted in 2011 and pre-dates the Framework, these local circumstances and the Council's evidence carry significant weight to justify affordable housing provision.
32. Affordable housing contributions would need to be secured via a legal agreement. No legal agreement or other binding obligation has been submitted for consideration with this appeal.
33. In the absence of such an agreement or obligation, I cannot conclude that the proposed development would make acceptable provision for affordable housing. This unacceptably conflicts with the relevant provisions of Policy CS21 of the CS and the Developer Contributions Supplementary Planning Document 2020 which, amongst other things, seek to meet the need for affordable homes.

Other Matters

34. I acknowledge the appellant feels they have not been given opportunities to resolve the reasons for refusal prior to the Council making its decision. However, when a planning application is made, the Council is also required to make a timely decision based on the information submitted.
35. While it is good practice to work proactively and resolve / narrow areas of dispute, it is clear to me that the Council had engaged in pre-application discussions with the appellant prior to receiving the planning application.
36. However, once the planning application was received, the Council had several objections to the scheme and there is limited evidence to suggest these objections could have easily been overcome in a timely way once the application was lodged.
37. Consequently, the Council was entitled to come to a decision based on what was submitted. Whilst this may have caused some frustration to the appellant, this is not a matter to which I can ascribe weight in this decision.
38. I have also considered the various other concerns raised by interested parties. However, none of the other matters raised outweigh or alter my conclusion on the main issues.

Planning Balance

39. The Council is unable to demonstrate a five-year supply of deliverable housing sites. In regard to the specifics of the appeal scheme and its situation, this would take me to paragraph 11 d) ii) of the Framework and where the most important policies would be out of date. I am then required to grant planning permission 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.
40. I have found unacceptable harm arises from the proposed development's impact upon the character and appearance of the area, the living conditions of the residential occupants, flood risk, wildlife, habitats and protected species, and the provision of affordable housing. The harms would be significant and long lasting. I therefore attach significant weight to the proposal's conflict with the development plan and the Framework when read as a whole.
41. The proposal would be an efficient use of a small site and would add a 2-bedroom dwelling to housing stock where there is an identified need. There would be economic benefits during the construction stage and through expenditure by future occupiers of the dwelling. However, these benefits would be modest given the proposal would be for one dwelling.
42. With the above in mind, it is sufficiently clear that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The appeal scheme would not therefore benefit from the presumption in favour of sustainable development.

Conclusion

43. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR