



Appeal Decision

Site visit made on 3 July 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/K3605/W/22/3309746

5 Central Avenue, West Molesey, Surrey KT8 2QX

- 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. Haines against the decision of Elmbridge Borough Council.
 - The application Ref 2022/1379, dated 3 May 2022, was refused by notice dated 30 August 2022.
 - The development proposed is described as the 'erection of a two storey extension to provide 1 x 2 bed & 1 x 3 bed flats, amenity space and parking'.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this case are:
 - the effect of the proposed development on the character and appearance of the existing property and surrounding area;
 - whether the proposal would provide acceptable living conditions for future occupiers, having particular regard to the provision of outdoor space and parking with respect to garden space and parking;
 - the effect of the proposed development on flood risk; and
 - whether the proposal makes appropriate provision for affordable housing.

Reasons

Character and appearance

3. The appeal property is a semi-detached two storey dwelling prominently sited on the corner of Central Avenue and Dunstable Road. The immediate surroundings are mixed in character, mostly two storey semi-detached dwellings, but there are some terraces and a parade of stores nearby.
4. I note that the site has a recent planning permission for a two storey side extension to provide two flats¹ (the approved scheme). Therefore, the Council has accepted the principle of an extension providing flats in this location. However, the proposal before me incorporates a different design to the roof and to fenestration, and the Council also point to an increase in footprint and parking and garden space alterations.

¹ Application reference 2019/2378

5. The existing semi-detached unit incorporates a simple hipped roof. The proposed extension, sitting on an angle from the main house, would add a gable and hip at differing heights. Whilst matching in materials and sitting slightly lower than the ridge of the main house, this would result in an awkward design that would sit in incongruous contrast to the existing property.
6. In addition, the ground floor high level rear windows would appear out of keeping with the existing pattern of fenestration, and their functional appearance would detract from the character and appearance of the rear elevation.
7. I acknowledge the variety of roof forms in the locality, as pointed to by the appellants; however, this does not justify the harm caused to the character and appearance of the existing property. I further note that the appellants have provided a copy of a certificate of lawfulness² for a hip-to-gable roof extension, however this would not have a comparable visual impact given the scale of the extension proposed. Given the prominence of the site, the proposed development would detract from the wider surroundings.
8. I conclude that the proposed development would detract from the character and appearance of the existing building and the surrounding area. The proposal would therefore conflict with Policy DM2 of the Elmbridge Local Plan Development Management Plan (2015) (DM) and Policy CS17 of the Elmbridge Core Strategy (2011) (CS). Amongst other things, and in accordance with the requirements of the National Planning Policy Framework (Framework), these policies seek high quality design in all new development, and proposals that preserve or enhance the character of the area. There is also conflict with the advice set out in the Supplementary Planning Document (SPD) 'Design and Character' (2012) which seeks to ensure high quality development across the Borough.

Living conditions

9. DM Policy DM10 sets out that proposals for new housing development or the conversion of larger dwellings into smaller units will be expected to offer an appropriate standard of living, internally and externally.
10. Whilst the amount of garden space that is considered appropriate is not specified in this policy, this is consistent with the requirement within the Framework to create places which promote health and well-being, with a high standard of amenity for existing and future users.
11. The two bed unit would be provided with 24m² of garden space set at the front of the property. This is identified on the submitted plan (06 C) as 'shared amenity' and described as such in the appellants appeal statement. As such, this unit would not have any private dedicated amenity space, that is essential for every day domestic activities, such as outside relaxation and clothes drying. The shared nature of this space would also lead to privacy issues given its location directly next to the windows of bedroom 1. Its location at the front next to a parking space would also limit its usefulness as an attractive amenity area to use. Notwithstanding its size, this space would not therefore represent an appropriate standard of living in terms of its location and nature.

² Application reference 2023/0428

12. The 3 bed unit would be served by dedicated private amenity space at the rear, which is measured at 18sqm. This is compromised however by the bin and cycle storage areas. The limited size of this area would be unlikely to be large enough to accommodate much more than a patio area with a small area for seating upon it. Its restricted size would be unlikely to be able to accommodate domestic items associated with a 3 bed family sized unit such as play equipment and clothes drying area. It would be cramped and would be unlikely to be a pleasant area to spend time in. Acceptable living conditions to the intended future occupiers would not be provided.
13. The appellants point to the short distance to Grovelands and Molesey Heath open space however, this does not represent private open space and does not justify under-provision on site. Similarly, the appellants point to nearby flats without any amenity space, however no information is provided with regards to the planning approval for these units and the policy context. As such, again, these do not justify non-compliance with current planning policy requirements.
14. Whilst the location of the parking spaces means that they would be positioned close to the front windows of the ground floor flat. This would not be an uncommon arrangement when parking spaces are located to the front, and examples are visible nearby, such as along Upper Farm Road. Moreover, I note that the appellants set out that this arrangement is the same for the approved scheme. The impact in terms of noise or light nuisance would not be significantly increased if the parking space would be used by occupiers of the first floor unit. As such, I am satisfied that the parking arrangement would not harm the living conditions of future occupiers.
15. Nevertheless, neither unit would provide satisfactory living conditions to the future occupiers with respect to private amenity space provision. There is therefore conflict with the appropriate standard of living requirements of DM Policy DM10 and the Framework.

Flooding

16. The appeal site is located within Flood Zone 3a. In accordance with the SPD 'Flood Risk' (2016), in accordance with the Framework, a site-specific flood-risk assessment³ (FRA) has been submitted. In addition, as required by CS Policy CS26, a sequential and exceptions test⁴ has been submitted.
17. These documents conclude that there are no suitable alternative sites available, and the site would provide wider sustainable development with regard to the need for additional housing in the region in this instance the site is considered to be at low overall risk of flooding. The FRA states that with the implementation of the proposed mitigation measures and the design of an appropriate surface water drainage strategy, the development would be safe for its residents, and it would not adversely impact flood risk.
18. The Council raise issue with a lack of detail in relation to surface water drainage. The FRA makes it clear that the site is located within an area of low risk from pluvial or surface flooding. The FRA outlines mitigation measures such as flood resilient materials and construction methods and raised finished floor levels. I also note again that the appellants point out that the FRA is

³ By STM Environmental 7/6/22

⁴ By STM Environmental 7/6/22

substantially similar to the document previously submitted for the approved scheme.

19. Were I minded to allow the appeal, a condition securing details of a suitable sustainable urban drainage system/surface water drainage strategy would ensure that flood risk is minimised and there is not an increase in flood risk elsewhere as a result of the development, particularly in the context of the extant planning permission for similar development on the site. These details would not result in a significant alteration to the submitted plans.
20. I therefore find no conflict with ECS Policy CS26 which, along with the SPD 'Flood Risk', states that development must be located, designed, and laid out to ensure that it is safe and the overall and local risk of flooding is reduced.

Affordable housing

21. Framework paragraph 64 sets out that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. West Molesey is not a designated rural area and the scheme before me represents minor development. However, the Council have provided extensive information demonstrating the ongoing acute need for affordable housing in the Borough, and that the requirement has not become a disproportionate burden for small scale developers and therefore frustrated housing supply. The appellant does not dispute the relevance of CS Policy CS21 to the proposal, and the Council have provided a number of appeal decisions to support this. In accordance with the number of appeal decisions submitted by the Council, I am therefore satisfied that, based on the information before me, the Council is justified in seeking an affordable housing contribution (subject to viability) in this instance.
22. There is no dispute between the parties that the viability assessment submitted by the appellant shows that the scheme is not sufficiently viable to provide a contribution towards affordable housing. However, the Council set out that a late review mechanism (LRM) in respect of affordable housing should also be submitted and secured through a legal agreement.
23. There is no reference to LRM within CS Policy CS21. The LRM requirement is detailed within the SPD 'Development Contributions' (2020), however this is guidance rather than policy. The Planning Practice Guidance (PPG) points out that plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. Policy CS21 does not do this.
24. The 'alternative provision' referenced in the supporting text to the policy is vague and does not demonstrate the need for a LRM in this instance. The Council provided a number of appeal decisions in support of the requirement for CS Policy CS21, however only one⁵ makes reference to a late review mechanism, and this is in the context of development over 5 units.
25. Based on the evidence before me and in this instance therefore, I am satisfied that there is no conflict with CS Policy CS21 and accordingly, a Unilateral

⁵ Appeal reference APP/K3605/W/21/3281073

Undertaking to provide a LRM is not necessary to make the development acceptable in planning terms.

Planning balance and conclusion

26. While the quantum of shortfall is not in evidence, the Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. Therefore, having regard to Framework footnote 8, Framework paragraph 11d) applies.
27. The proposal would result in 2 additional units of accommodation which would contribute to addressing this shortfall and to the Government's broader objective of significantly boosting the supply of homes, as supported by the Framework. I also acknowledge that the development would make efficient use of the site in a location with good access to services and facilities and would be of an appropriate density.
28. I have taken full account of all the matters advanced in support of the proposal. However, due to the nature and scale of the appeal proposal, the benefits would be relatively limited. The lack of suitable living conditions for future occupiers and harm the character and appearance of the existing property and surrounding area are matters to which I attribute great importance. Even if the shortfall in terms of five year supply of housing sites was significant, 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. Hence, the proposal would not comprise sustainable development.
29. 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.

B Phillips

INSPECTOR