



Appeal Decision

Hearing held on 11 July 2023

Site visit made on 12 July 2023

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2023

Appeal Ref: APP/K3605/W/23/3315071

10 Arnison Road, East Molesey, Surrey KT8 9JJ

- 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 IPE Arnison Road Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2021/3133, dated 23 August 2021, was refused by notice dated 23 September 2022.
 - The development proposed is extensions and alterations to increase the number of flats from 4 flats to 11 flats incorporating three-storey side extension, three-storey rear extension incorporating rear balconies and lower ground floor, bin and cycle stores, front boundary wall, associated parking and landscaping following demolition of existing single-storey rear/side projection.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by IPE Arnison Road Limited against Elmbridge Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development in the banner heading above is taken from the agreed Statement of Common Ground ('SoCG') which is consistent with the descriptions stated on the Council's decision notice and entered by the appellant on the appeal form. As it is used and agreed by both main parties and accurately sets out the development proposed, I am satisfied that no injustice would be caused by basing my assessment on this description.
4. The Council's fourth reason for refusal of the planning application concerned flood risk. In response to additional information supplied by the appellant, the SoCG and the Council's appeal statement confirm that the Council is satisfied that the reason for refusal has been overcome. I have no firm reason to find otherwise, and I have considered the appeal on this basis.
5. Shortly before the Hearing opened, the appellant submitted a planning agreement pursuant to Section 106 of the Town and Country Planning Act 1990 which had been prepared in discussion with the Council. It was unsigned, and I allowed a short period following the close of the Hearing for it to be completed. A completed agreement dated 24 July 2023 was then submitted ('the S106').

6. I have been made aware of a previous proposal on the appeal site for a development of 12 residential units which was dismissed at appeal¹ ('the Previous Appeal'). I have had regard to the Previous Appeal as a material consideration, although I have determined the appeal having regard to the evidence and individual merits of the development that is now before me.

Main Issues

7. The main issues are:
- i) whether or not the proposed parking arrangements would be adequate having regard to the availability of on street parking and effects on the living conditions of nearby occupiers;
 - ii) the effect of the proposal on the living conditions of the occupiers of 8 and 12 Arnison Road with particular regard to whether or not it would be overbearing; and
 - iii) whether or not the proposal would make appropriate provision for affordable housing.

Reasons

Parking

8. The appeal proposal includes extensions and alterations to a detached building, and an increase in the number of flats on the site from 4 to 11. There would be 6 parking spaces provided within the frontage of the site. This would be below the requirement for up to 14.5 spaces suggested by the Elmbridge Parking Standards at Appendix 1 of the Elmbridge Local Plan Development Management Plan 2015 ('the DMP') and also detailed within the Parking Supplementary Planning Document ('SPD') 2020. However, while Policy DM7 of the DMP sets out that provision of car parking should accord with them, the standards are expressed as the maximum level of parking required rather than minimums to be met. As a consequence, there would be no inherent conflict with them.
9. That said, Policy DM7 also includes a requirement that parking provision should be appropriate to the development and not result in an increase in on-street parking stress that would be detrimental to the amenities of local residents. In such instances, Policy DM7 states that a minimum provision of one space per residential unit will be required.
10. The appellant suggests that daytime demand for parking from the development could be accommodated within the spaces to be provided on the site frontage. However, they also suggest an overnight demand for on-street parking for 2 vehicles. I agree with the Council that there would therefore be likely to be situations where an occupier of the site may not move a vehicle that had been parked on-street overnight to a space that then becomes available within the site the following day. Even if I were to accept the appellant's overall parking demand figures, I consider that there would in practice be likely to be some demand for daytime parking on-street outside of the appeal site.
11. Furthermore, the appellant's assessment of daytime parking demand is based on ward-level Census data from 2011 in respect of vehicle ownership levels and travel to work modes. The appellant's statement and Transport Technical Note ('TTN') refer to potential daytime demand for parking for 3 vehicles on the

¹ Appeal ref APP/K3605/W/19/3233334

basis of a sensitivity test considering the percentage of residents who could be expected to work mainly at or from home or who are not in employment. The appellant suggested at the Hearing that their assessment of daytime parking demand accounted for residents who may travel to work by means other than private vehicle and so would leave vehicles at the site during the day. However, this is not clear in the explanation within the TTN or the appended Transport Statement ('TS'), and it seems to me that residents who owned a vehicle but travelled to work by other means would be likely to generate some demand for daytime parking in addition to the 3 spaces indicated for those not in employment or working from home.

12. The Census data is also some years old. I appreciate that it may be the most robust source currently available. Nevertheless, it is unclear from the information before me how representative it remains, particularly given general trends since the COVID-19 pandemic including increases in levels of home and hybrid working. The appellant commented that levels of vehicle ownership may have fallen alongside these increases, but I have no firm details and I consider this uncertainty would warrant a slightly more cautious approach to the assessment of daytime parking demand.
13. Furthermore, the demand for parking resulting from the development can only be a prediction. There was discussion at the Hearing about a potential condition to restrict occupiers' eligibility to parking permits for any Controlled Parking Zone ('CPZ') that may be in force in the Borough at any time. Irrespective of concerns raised by the Council about the reasonableness and enforceability of the condition, there is currently no CPZ in place around the site. A condition in this form would not therefore be effective in preventing on-street parking by occupiers of the development, and there is no other mechanism before me that could restrict actual vehicle ownership or use by future occupiers of the site.
14. Surrey County Council ('SCC') may have accepted the appellant's view of parking demand, but for the reasons above, I do not share the appellant's confidence that there would be no demand for daytime on-street parking. I consider having regard to the number of spaces below the maximums indicated by the Elmbridge Parking Standards and characteristics of the 11 dwellings (including 7 two-bedroom dwellings) proposed that there would in practice be likely to be demand for daytime parking on-street outside of the appeal site, as well as overnight demand.
15. Turning to consider whether this demand would increase 'on-street parking stress that would be detrimental to the amenities of local residents', I have not been directed to any specific policy or guidance adopted by the Council on how this should be determined. The appellant indicates that SCC and Lambeth (who prepared the parking methodology on which the parking survey guidance in the Parking SPD was based) generally apply thresholds of 80% and 85% respectively in assessing what would amount to parking stress. The Council accepted at the Hearing that it would be reasonable to have regard to these thresholds, and from the evidence that is before me, I agree.
16. The main parties agree that overnight parking stress would not be harmfully increased. However, the information before me indicates that levels of parking in the vicinity of the appeal site are typically higher during the daytime than overnight, likely at least in part as a result of commuter parking given the proximity of the site to Hampton Court rail station.

17. The appellant has undertaken a series of parking surveys of the area around the appeal site having regard to the methodology advised in the Parking SPD. However, the 2017 and 2019 surveys provide either no or limited data on parking demands throughout the daytime. The 2020 surveys included more frequent daytime assessments. The summary results of these surveys at Section 2 of the TS indicated average parking stress levels of up to around 85%, hitting even the higher parking stress threshold level referred to by the appellant without the appeal proposal. The 2021 surveys showed generally reduced levels of parking, with average parking stress reaching a maximum of around 67%, but these surveys were carried out in March 2021 at a time when there remained some COVID-19 related restrictions on movement. In my view, these restrictions would have been highly likely to have had an effect on patterns of parking.
18. The appeal submission was accompanied by further surveys carried out in September 2022 which indicate lower levels of parking stress in the survey area than the pre-pandemic surveys with a maximum parking stress level of 76%. Although below the guideline thresholds for parking stress, all of the surveys identify the section of Arnison Road between the junctions with St Johns Road and Hansler Grove as 'unrestricted parking'. This stretch of Arnison Road is narrower than other parts of the street, and I saw during visits mid-afternoon before the Hearing and late morning following the Hearing that this leads to vehicles parking partly on the footways so as not to obstruct the highway.
19. Based on my observations, I am in no doubt that parking taking place on the footways on Arnison Road can cause obstruction or inconvenience to pedestrians, and particularly those who may use wheelchairs, have issues with sight or have children in pushchairs. I accept that the on-footway parking is an existing occurrence and I am not aware of any proposals to introduce measures to prevent it, but I therefore share the Council's concerns about the appropriateness of including this section of the street as potential unrestricted parking in the surveys. Indeed, the fact that vehicles are parking in this way causing marked obstruction to the footway is to my mind an indicator of a level of existing parking stress.
20. At the Hearing, the appellant stated that omitting parking along one side of this section of Arnison Road would remove around 10 potentially available spaces. However, I saw that the particularly narrow width of the section closest to St John's Road would also be likely to restrict scope for parking within the carriageway even along only one side of the street. Even removing only 10 potential spaces would suggest maximum parking stress levels of above the 80% threshold and approaching the higher threshold of 85% based on the numbers of parked vehicles recorded in the appellant's 2022 surveys.
21. Furthermore, the results of the parking surveys represent only a snapshot in time, and I do not doubt from the representations made by interested parties that there are instances when levels of demand make finding available on-street parking difficult. I am unable to verify the accounts given or scrutinise the basis for them, but similar concerns are raised by a number of parties. As with the Inspector in the Previous Appeal, I give weight to this evidence of longer term lived experience of conditions on Arnison Road. In addition, the appellant's 2021 parking surveys showed levels of parking at the 85% stress threshold even taken at face value. This may have in part been a

result of construction activity and behaviours may have changed since the pandemic, but it is unclear if trends will endure, and the 2022 survey results indicate instances of levels of parking that are still approaching the guideline stress thresholds. From the surveyed locations of parked vehicles and my experience at my visits, it also appears that available parking in the vicinity of the appeal site is often more limited than elsewhere in the survey area further from the junction with Bridge Road. Even if overall parking stress levels are below thresholds and there are spaces available in the wider area, additional demand from the development for on-street parking would be likely to increase pressure in this location causing inconvenience for residents closest to the site.

22. The appellant has drawn my attention to consultation carried out by SCC on a potential CPZ in the area around the site and responses from Arnison Road commenting that parking is not often a problem, there is usually a space and that parking stress has reduced since the pandemic. However, I do not have full details of these comments or which properties responded, and they are contrary to representations made by local residents on the appeal proposal.
23. On the basis of the information before me, I find notwithstanding the appellant's parking surveys that the appeal site is within an area experiencing some daytime pressure for parking, though this may have reduced somewhat since the time of the Previous Appeal. The proposal would add to this pressure, albeit that I consider the increase would be likely to be small.
24. The appellant has drawn my attention to variations in the numbers of parked vehicles recorded at any given time across different days of the parking surveys undertaken, and I accept that additional demand for on-street parking from the proposal is likely to be within this range. This would reduce the likelihood that effects of the development would stand out, but I am not persuaded that the effects of additional parking demand would be wholly imperceptible, particularly at times when it may coincide with the highest levels of background demand, further increasing overall pressure.
25. In my judgement, additional local parking demand from the proposal could increase occasions of difficulty in residents near to the site finding available parking near to properties or instances of parking that may be obstructive or unneighbourly, albeit without necessarily giving rise to a highway safety issue. This would be detrimental to the amenity of local residents. In my assessment, the likely small increase in demand means that the magnitude of the effect would be relatively modest and I am not persuaded that a requirement for a minimum provision of one space per dwelling as suggested by the Council would be justified. Even so, I cannot agree with the appellant that there would be a negligible impact on parking conditions.
26. SCC have not objected to the proposal, but their comments state that the development has been assessed on safety, capacity and policy grounds. The Council does not assert that there would be harm to highway safety or to the capacity of the highway network to accommodate vehicle flows, and I have no compelling evidence to the contrary, but the harm that I have identified above relates to the amenity of local residents. This is a wider consideration than highway safety or the capacity of the highway network to accommodate vehicle flows, and the lack of an objection from SCC is not therefore determinative.
27. Drawing all of the above together, I find that there would be some additional daytime demand for on-street parking arising from the proposal. This would

increase experiences locally of pressure for parking, and I find on balance that the degree of increase likely to result from the number and mix of dwellings proposed would cause some detriment to the amenity of local residents. As a consequence, I am unable to find that the proposed parking arrangements would be entirely adequate to serve the development, and in this regard, I conclude that the proposal would conflict with Policy DM7 of the DMP.

28. The National Planning Policy Framework ('the Framework') states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. However, the harm in this case would be to the amenity of local residents rather than highway safety or the road network itself. This would be contrary to the requirement within the Framework to ensure that development creates places with a high standard of amenity, a requirement that is not subject to any provision that impacts must be severe to justify refusal of a proposal.

Living Conditions

29. The development now proposed has been amended from the Previous Appeal scheme, including a reduction of around 2.85m in the depth of the part of the rear extension closest to the boundary with 12 Arnison Road. The appellant indicates that the development would not now intrude a 45 degree splay line taken from the rear of No 12, complying with guidance in the Design and Character SPD 2012.
30. The Council suggested at the Hearing that the 45 degree rule relates to assessment of natural light rather than outlook. This is disputed by the appellant, but even if I were to agree with the appellant that the 45 degree rule is relevant here, the guidance within the SPD is just that. While it may provide an indication of what is likely to be acceptable, this is not an inevitable conclusion should development accord with its provisions and it is instead necessary to also have regard to the specific circumstances of a proposal.
31. In this case, the extension would be in fairly close proximity to the shared boundary with No 12 where it would project a reasonable distance beyond the rear of the closest ground-floor part of this neighbour at a height similar to if not greater than its main roof. Moreover, it would be substantially deeper relative to the closest first and second floor rear windows of this neighbour which I saw at my visit are set back from its ground floor and the existing rear elevation of the appeal building. Even if there would be no intrusion of a 45 degree splay line from the ground floor window, the upper floors of the extension would be of significantly greater height above the first-floor of No 12. Based on my observations and the information before me, the development would intrude significantly into views from the closest first-floor window which appears to serve a habitable room.
32. I accept that the extensions would be generally subordinate to the host building. Be that as it may, the combination of the significant height and the bulk and mass of the extension and its proximity to No 12 would in my judgement result in a dominant and overbearing feature in views from the closest rear windows of this neighbour, and in particular the first floor window where I find it would significantly harm outlook for occupiers of the room. Given its height and proximity, the scale of the extension would also form a fairly imposing feature in some views from the part of the garden closest to the

rear of No 12. The reduced depth of the extension means that the affected area would be fairly small and I consider the effect on the overall enjoyment of this space would be minor, but taken together with the harm to outlook from the closest rear windows, I find that the proposal would cause unacceptable harm to the living conditions of the occupiers of No 12.

33. The part of the extension closest to No 8 has not been altered from the Previous Appeal scheme. That said, I saw building work to No 8 was ongoing at the time of my visit. I do not have full details of what these works comprise, but from photographs in the evidence before me, it appears that they may include an increase in the depth of the first-floor part of the dwelling closest to the appeal site which was previously set further back relative to the ground-floor beneath. As a consequence, the development would no longer project so far beyond the closest first-floor window as would have been the case in the Previous Appeal, reducing the extent of available likely views along the side of the extension.
34. However, I am not aware that the depth of the ground-floor to No 8 has increased since the Previous Appeal so as to significantly alter this relationship with the development. The appellant has provided computer generated images of the perspective from windows of No 8 which indicate that there would be open views towards the rear, but these are from fixed points and in my assessment the development would be appreciable in the overall outlook from within the room. It would also be appreciable from the closest part of the garden. In these views, I find that the bulk, height and mass of the extension would be somewhat imposing and I agree with the Inspector in the Previous Appeal that outlook for occupiers would be affected to an unacceptable degree. I acknowledge that the overall bulk and mass of the extension would be reduced in views back towards the property from the deeper parts of the garden of No 8 and the effect on the nearest first-floor window would be reduced from the Previous Appeal. Nevertheless, I am not persuaded that these factors would wholly negate the harm to the living conditions of the occupiers of this dwelling, albeit that I find this harm would be limited.
35. I am satisfied that the proposal would not cause a harmful loss of light for neighbouring occupiers, and, subject to conditions, there would not be unacceptable overlooking. However, I conclude for the above reasons that although reduced from the Previous Appeal scheme, the proposal would be overbearing causing unacceptable harm to the living conditions of occupiers of 12 Arnison Road, and also causing some limited harm to the living conditions of the occupiers of 8 Arnison Road. It would accordingly conflict with Policy DM2 of the DMP insofar as it seeks, amongst other things, to protect the amenity of adjoining occupiers and requires that development proposals should be designed to offer an appropriate outlook. It would also be contrary to guidance in the Design and Character SPD seeking development that is neighbourly and that does not have a negative effect on outlook from windows and amenity spaces, and the Framework requirement for a high standard of amenity.

Affordable Housing

36. Policy CS21 of the Core Strategy 2011 ('the CS') includes a requirement, where viable, for affordable housing provision of 30% of the gross number of dwellings on sites of 6-14 dwellings.

37. The CS pre dates the Framework which outlines that affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. However, the Council's evidence points to a pressing need for affordable housing in the Borough, and outlines that the Council's ability to deliver affordable housing would be significantly adversely affected by application of the threshold within the Framework. Evidence further indicates that the viability of individual development schemes and the deliverability of the plan have not been undermined by the requirements of Policy CS21. With no substantive information to the contrary, I find that there is compelling evidence of specific local circumstances which justify the continued application of the requirements of Policy CS21.
38. There is no dispute between the main parties that provision of affordable housing would be unviable. In such circumstances, the Development Contributions SPD 2020, updated 2021 outlines a requirement for early and late stage review mechanisms with details secured through legal agreements. The s106 includes obligations securing early and late stage review mechanisms which the main parties agree would be required.
39. In light of the supporting information and the evidence that is before me, I find that the obligations within the s106 would be necessary to make the development acceptable in planning terms, would be directly related to the development, and be fairly and reasonably related in scale and kind to the development. They would therefore meet the tests set out in the Community Infrastructure Levy (CIL) Regulations 2010 which are reflected in the Framework, and can be given weight.
40. The Council has confirmed that the s106 would secure what is intended, and would address its first reason for refusal. I have no firm reason to find differently. I therefore conclude that the proposal would make appropriate provision for affordable housing and would accord with Policy CS21 of the CS.

Planning Balance

41. The main parties agree that the Council is unable to demonstrate a 5 year supply of deliverable housing sites, and that the current supply position is 4.36 years. The Framework therefore indicates that the policies which are most important for determining the application would be deemed out-of-date, and the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework would be engaged. In this instance, the presumption provides that planning 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.
42. The appeal site is included on the Council's Brownfield Land Register. The Brownfield Land Register 'Information for Users' states that the identification of sites on the Register does not imply that the Council would necessarily grant planning permission for residential development, and that the Register does not have material weight in the determination of planning applications. Nevertheless, the proposal would make effective use of a previously developed site within an accessible location close to a rail station to deliver a net gain of 7 dwellings towards the supply of housing locally. It would also provide a total of 4 one-bedroom and 7 two-bedroom dwellings which would help to meet the most acute identified needs for smaller homes in the Borough, widening the overall choice of housing.

43. In this regard, it would be consistent with Policy CS1 of the CS insofar as it seeks to direct new development to previously developed land within existing built-up areas. The Framework also refers to boosting significantly the supply of housing, and addressing the needs of groups with specific housing requirements. It highlights that small and medium sized sites such as this can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly, and promotes the effective use of land and the development of under-utilised land including to meet needs for housing. In light of these objectives, and with regard to the past and ongoing housing undersupply against requirements, the provision of additional homes, and particularly smaller homes, for which there is an acknowledged need is a benefit of considerable importance, and I afford it great weight. However, the existing dwellings on the site are also smaller dwellings, and the extent of the additional benefit and the contribution made to the mix and supply of housing overall would be limited by the modest scale of the proposal.
44. The appeal site is part of the East Molesey (Kent Town) Conservation Area ('the CA'). I note that unsympathetic extensions to the rear of the building would be removed. However, these existing extensions are of limited public visibility. I share the Council's view that the design of the development would be generally acceptable in character and appearance terms, but there would not in my assessment be a significant enhancement to the character or appearance of the building or of the CA overall so as to comprise a clear benefit attracting weight in favour of the proposal. The quality of the proposed landscaping would also be a mostly private benefit to future occupiers of the site, and I give it limited weight.
45. The appellant indicates that the development would achieve a biodiversity net gain of 5.64% and 0.02 hedgerow units. I agree with the appellant that these benefits attract moderate weight, although the actual increases would be fairly small tempering the extent of the benefit.
46. At the Hearing, the appellant referred to economic benefits through the construction process including employment and likely use of SME builders. I agree with the appellant that employment need not necessarily be for local people to be of value, but economic benefits of the proposal have not been quantified in the information before me. Having regard to the modest scale of the proposal, I consider they would be likely to be limited and I give them moderate weight.
47. Against these benefits, there would be harm to the living conditions of the occupiers of 8 and 12 Arnison Road, contrary to requirements in the Framework for high quality design and development that provides a high standard of amenity for existing users. I attach significant weight to the significant harm that would be caused to the living conditions of the occupiers of No 12 and some further weight to the limited harm that would be caused to the living conditions of the occupiers of No 8. The detrimental impact on the quality of accommodation offered by these existing dwellings would also moderate somewhat the overall benefit through the provision of additional housing.
48. There would also be inadequate provision for parking resulting in additional daytime demand for on-street parking that would be detrimental to the amenity of local residents. The increase in parking demand and consequently

the level of harm would be likely to be relatively modest, but it would affect a fairly large number of residents, particularly those closest to the site where parking appears to be in highest demand, and I give it significant weight.

49. The degree of harm associated with the inadequate provision of parking would be modest, but taken cumulatively with the harm to the living conditions of the occupiers of No 8 and No 12, I find in the context of paragraph 11(d) of the Framework that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development within the Framework. Neither do I find that there are material considerations sufficient to justify a decision otherwise than in accordance with the development plan.

Conclusion

50. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mandip Singh Sahota	NTA Planning LLP
David Howson	Ardent

FOR THE LOCAL PLANNING AUTHORITY:

Jack Trendall	Elmbridge Borough Council
Jenny Margetts	Elmbridge Borough Council

INTERESTED PARTIES:

David Clark

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Email with details of the number of parked vehicles within the area of the parking survey study area on the morning of 11 July 2023 and accompanying photographs, submitted by the appellant
- 2 Elmbridge Brownfield Register and Brownfield Land Register Information for Users 2019, submitted by the Council
- 3 Design and Character Supplementary Planning Document Companion Guide: Home Extensions 2012, submitted by the Council

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1 Appellant's agreement to pre commencement conditions (email of 14 July 2023)
- 2 S106 Agreement dated 24 July 2023