



Appeal Decision

Site visit made on 30 August 2023

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref: APP/K3605/W/22/3313344

34 Queens Road, Weybridge, Surrey KT13 0AU

- 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 Rushmon Homes against the decision of Elmbridge Borough Council.
 - The application Ref 2022/0944, dated 17 March 2022, was refused by notice dated 14 October 2022.
 - The development proposed is construction of 10 apartments with associated parking, landscaping, refuse and cycle storage areas following demolition of existing house
 - and garage.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Rushmon Homes against the decision of Elmbridge Borough Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are therefore:
 - a) The effect of the proposal on the character and appearance of the area, including the setting of No 32 Queens Road, a Grade II listed building.
 - b) Whether the proposal should contribute towards the provision of affordable housing.

Reasons

Character and appearance

4. No 34 occupies the corner plot at the junction of Queens Road with St George's Avenue. The bridge over the railway line on Queens Road, to the north-west of the site, marks a significant change in the character of that street from commercial to residential. The residential part of Queens Road is characterised by buildings that are set back from the street behind hedges, trees and fences giving the area a spacious and verdant appearance.
5. The appeal site is currently occupied by a 2-storey detached house and a detached single garage set in a generously proportioned plot. To the front of the property is an open area of asphalt and grass. The front of the house is set back fractionally further from the street than No 32. The garden, which is to the side and rear includes some mature trees close the boundaries. This gives

the site an enclosed feel, most especially along St George's Avenue. The house is therefore well-screened from both the adjacent streets when the trees are in full leaf.

6. The proposal would replace the existing dwelling with a larger building which would be part 2-storey and part 3-storey. Accommodation would also be provided at second and third floor levels within the roofspace. The building would occupy a significant proportion of the site with a footprint of 390m² compared with the existing 112m². The front elevation would be closer to the street than the existing dwelling. The 2-storey section would project a little beyond the front elevation of No 32, and the 3-storey section more so. Much of the remaining area to the front would be hard surfacing for car parking. The depth and width of the building would leave only a small gap between the side elevation and St George's Avenue. The gap between the southernmost tip of the building and the drive serving Brackenhurst would be minimal. The retained area of green space to the rear would also be limited. The distances between the building and its roadside boundaries would be smaller than those at Clevehurst, the development on the opposite side of St George's Avenue.
7. The height and mass of the proposal, particularly the 3-storey element would be prominent on this corner plot, even with the existing trees retained. Furthermore, the submitted drawings show some loss of vegetation along the St George's Avenue frontage. The combined effects of the footprint, siting and mass of the building is that there would be inadequate space around it. This would be out of character with the surrounding area, where other buildings of similar height and mass have more comfortable relationships between their footprints and the size of their plots. Even though the scheme would be high density and make efficient use of previously developed land, that should not be at the expense of the quality of the local environment. I consider the proposal would be an overly large building squeezed onto this corner plot in a way that would harmfully erode the area's sylvan character and appearance.
8. I am aware that planning permission was granted for a scheme incorporating the appeal site that would have provided 59 retirement apartments within a 3-storey building. There is therefore no objection in principle to a 3-storey building on the site. However, that scheme related to a larger site including Brackenhurst, Christmas Cottage, Beech Croft and The Hollies. From the evidence presented, that scheme was set significantly further away from the corner of Queens Road with St George's Avenue. Its effects on the surrounding area are therefore not directly comparable with the appeal proposal.
9. The design gives the impression of a building of two halves with little synergy between the 2 and 3 storey elements. The design includes a multiplicity of roof forms and significant mass at roof level. The flat roof dormers, including those which are double stacked at the western end of the building, combined with large gable features, would give it a clumsy and muddled appearance. In my view the reduction in height and width of the building would provide a contrived transition between the heights of Clevehurst and No 32. The provision of balconies and some commonality in the fenestration would not be sufficient to integrate the different elements of the building. Furthermore, part of the rear elevation would be visible from St George's Avenue. The expanses of brickwork with little articulation would look bland and uninteresting. The rear facing 'false' dormer with no window and the different eaves levels would add to the awkwardness of the building's appearance.

10. The distinctiveness of the gable facing Queens Road would be diminished by the lack of symmetry to the roofslopes on either side. Whilst the dormers to its left would sit at the same height within their roofs, to the right there would be a much larger dormer with a different roof form that would project above the main ridge. The provision of undercroft parking would mean that a section of the ground floor front elevation would present a blank façade to the street. This would be neither an attractive nor active frontage to the proposal. This mix of features would not create a beautiful building and the use of appropriate materials would not be enough to overcome these shortcomings of the design.
11. The site is adjacent to No 32, a Grade II listed building. I therefore have a duty to have special regard to the desirability of preserving its setting. No 32 is a former gatekeeper's lodge designed in 1844 for a large house, Firgrove, which no longer exists, was approximately 700m away and approached by a long driveway. The house is a single-storey rustic building in a Russian Style. It is timber-framed with brick infill and vertical logs nailed to the outside with horizontal logs to top, pantiled half-hipped roof and a central clustered brick chimneystack. Other architectural features of interest include its doors and windows and its interior includes some original joinery. Although various additions, alterations and extensions were made during the 20th century, its significance is primarily related to its design and original architectural features.
12. Its historic setting as a gatehouse has now been lost with the demise of Firgrove and its driveway. The intervening land has subsequently been subdivided and intensively developed. The existing setting of No 32 is confined to its immediate surroundings which are entirely modern. The setting makes only a minor contribution to the building's significance as a rare survival of its kind. Nevertheless, its setting provides the house with 'breathing space' so that its diminutive size and scale sits comfortably on its plot and is not overwhelmed by the height, bulk, or proximity of surrounding development.
13. The front elevation of the proposal would project forward of No 32, making it more prominent than the listed building. Although the flank wall would not be closer to the shared boundary than the existing garage it would be deeper projecting beyond the rear elevation of No 32. Even though the hipped roof form would preserve a reasonable gap between the buildings, its height and bulk would project above the central chimney stack of No 32 and therefore appear to dominate and overwhelm its smaller neighbour. This combination of factors would reduce the sense of space around the listed building and intrude into its setting. Although the proposal would fail to preserve the setting of No 32, in view of the extensive changes which have already occurred, I consider this harm would be less than substantial in terms of the National Planning Policy Framework (the Framework). I am therefore required to weigh this harm against the public benefits of the proposal as set out in paragraph 202 of the Framework and will address this in the planning balance.
14. For all the reasons set out above, I conclude that the proposal would cause significant harm to the character and appearance of the area. It would conflict with Policy CS17 of the Elmbridge Core Strategy (Core Strategy) and Policies DM2 and DM12 of the Elmbridge Local Plan – Development Management Plan (DMP). These policies, amongst other things, require development to respect its context, including prevailing patterns of built development and separation distances to plot boundaries, and to protect the borough's heritage assets.

Affordable housing

15. Policy CS21 of the Core Strategy requires developments of 6-14 dwellings to provide 30% of the units as affordable homes. The appellant submitted a viability assessment with the application which was independently reviewed during the Council's consideration of the proposal. It was concluded that the scheme was not sufficiently viable to support a policy compliant contribution towards affordable housing. However, whereas the appellant's assessment suggested the scheme would return a deficit of £22k, thereby justifying a nil contribution, the Council's assessment identified a surplus of just over £117k.
16. The difference between parties (in mid-2022) could be largely attributed an outstanding disagreement in respect of the value of the existing property and therefore the Benchmark Land Value (BLV). Nevertheless, as a compromise, the appellant was willing to offer one of the units at a discounted price of £250k rather than the full market price of around £360k. This would comply with the government's definition of a First Home. The supporting text of Policy CS21 indicates that where affordable housing cannot be provided in accordance with the policy, the Council will seek to negotiate alternative provision. However, it considered the offer of a First Home would not be policy compliant and were only willing to accept a financial contribution, secured by a planning obligation. This was not forthcoming.
17. Following the Council's refusal of the scheme the offer of a First Home was withdrawn. Instead, the appellant updated the viability assessment during the appeal and presented evidence to support the contention that the scheme cannot support any contribution towards affordable housing. The updated appraisal took account of recent uncertainties in the economy and housing market. The assessment was adjusted for increased building costs and interest rates. The update also significantly increased the item for contingencies, over-estimated the CIL liability, and increased the developer's profit to 20%, which is at the upper end of the range set out in the Planning Practice Guidance (PPG). However, it made no change to the BLV of £1.32m. As a result of these amendments, the updated assessment indicated that the scheme would have a deficit approaching £430k. Based on this figure, it would seem unlikely that the development would proceed at all, as it would not be commercially fundable.
18. The Council's partial scrutiny of the updated assessment suggested that even if most of the above assumptions were accepted, applying its BLV of £1.18m the scheme would generate a surplus of just over £106k. However, the inflationary pressures affecting building and borrowing costs, combined with considerable uncertainty about the direction of house prices, make it difficult for me to believe that there would be such a small reduction in the surplus from the proposed development. It may well be that the Council's unwillingness to accept the offer of a First Home has jeopardised an opportunity to secure a small affordable home. This is regrettable given the high level of house prices in Elmbridge and the identified need for 1-2 bedroom properties. However, whilst a financial contribution towards affordable housing in the region of £100k would be difficult to justify in the current climate, neither do I consider the scheme to be so unattractive commercially that a modest financial contribution would be impossible. It is therefore unsurprising that the Council's consultants recommended viability review mechanisms in the expectation that this might lead to a contribution in the future.

19. The justification for review mechanisms is set out in some detail in the Council's Development Contributions Supplementary Planning Document (SPD) which was updated in April 2021. Their purpose would be to test and where possible increase the level of contribution to meet the requirements of Policy CS21. Where deemed appropriate, triggers would be agreed with applicants and secured through legal agreements prior to grant of planning permission.
20. However, neither the policy nor the supporting text of Policy CS21 refers to any review mechanisms. Furthermore, the Planning Practice Guidance (PPG) states that plans should set out the 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. Whilst the SPD is a material consideration, it does not have the status of planning policy and the need for review mechanisms has not been set out or justified in Policy CS21. The imposition of them in this case would therefore be unreasonable.
21. I appreciate that the need for affordable homes in Elmbridge is acute but given the outcome of the viability assessments, it was common ground that the scheme would not be able to comply with the requirements of Policy CS21. In these circumstances, seeking a negotiated alternative would have been an acceptable option. However, there is no planning obligation to secure either a First Home or an agreed financial contribution before me. This leads me to conclude that the proposal would conflict with Policy CS21 due to the absence of any contribution to the borough's acute need for affordable housing.

Planning Balance

22. The Council is unable to demonstrate a 5-year supply of deliverable housing sites, which currently stands at 4.88 years. The Housing Delivery Test at 70% indicates that the delivery of housing was substantially below the housing requirement over the previous three years. As such, the Council's policies are considered to be out-of-date and paragraph 11 d) of the Framework is engaged.
23. The Framework advocates strategic policies which maximise the use of previously developed land in locations where there is good access to services and facilities. It also promotes good design with the creation of high-quality, beautiful buildings with good architecture, appropriate layouts and effective landscaping which respects its context. Where affordable housing is needed, the Framework advises that on-site provision is preferable, but off-site or appropriate financial contributions are acceptable if justified. The Framework also seeks to protect heritage assets which are an irreplaceable resource and should be conserved in a manner appropriate to their significance.
24. I have found the proposal would be contrary to the development plan in respect of design and affordable housing provision and due to its failure to preserve the setting of No 32. There would therefore be conflict with the development plan taken as a whole. As the Council's policies are broadly consistent with the Framework's approach, this conflict carries significant weight in the planning balance.
25. On the other hand, in view of the shortfall in the Council's housing land supply, especially the identified need for small homes, there would be moderate social benefits from replacing one large dwelling with ten 1 and 2 bedroom flats. They

would be located close to facilities and services and in an area well served by public transport. There would be short-term economic benefits during the construction period and future occupants would contribute to the local economy. This combination of benefits attracts significant weight.

26. Even though harm to a designated heritage asset is a matter of considerable importance and weight, I consider these public benefits would outweigh the less than substantial harm to the setting of No 32. Therefore, the effect on heritage would not provide a clear reason to refuse the development and it is necessary to apply the test set out in paragraph 11 d) ii) of the Framework.
27. I have concluded that the proposal would cause significant harm to the character and appearance of the area arising from its siting and poor design quality. This matter attracts very significant weight in view of the Framework's objective of ensuring that development is visually attractive, sympathetic to local character and will add to the quality of the area. In addition, the lack of any contribution to the provision of much-needed affordable housing is a significant factor that counts against the scheme.
28. This leads me to conclude that these collective adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development does not apply.

Other Matter

29. The appeal site is within the Zone of Influence of the Thames Basin Heath Special Protection Area (SPA). During the appeal process the appellant submitted a Unilateral Undertaking which would secure a financial contribution towards mitigation measures that would protect the SPA. The Council confirmed that this would address its third reason for refusal. However, notwithstanding the UU, as the scheme is unacceptable for other reasons, there is no need for me to consider the implications of the proposal on the protected site.

Conclusion

30. The proposal conflicts with the development plan and there are no other considerations, including the Council's housing land supply position and the provisions of the Framework, which suggest that a decision should be made other than in accordance with the development plan.
31. For this reason, the appeal is dismissed.

S M Holden

INSPECTOR