



Appeal Decision

Site visit made on 20 July 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Appeal Ref: APP/K3605/W/23/3314257

56 Grove Way, Esher, Surrey KT10 8HN

- 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 M Daniel, D&G (Thames Ditton) Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2022/1542, dated 16 May 2022, was refused by notice dated 13 September 2022.
 - The development proposed is demolition of existing fire damaged house, ancillary outbuildings and removal of TPO tree. Construction of two semi-detached 3-bed dwellings including ancillary structures, associated infrastructure and hard and soft landscaping works including replacement tree planting.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and,
 - whether the proposed development provides appropriate car parking provision.

Preliminary Matters

3. I acknowledge that the Council did not specify within the first reason for refusal whether they were concerned with the siting of the proposed dwellings or the garages. However, this has been clarified within their appeal statement and the appellant has had an opportunity to respond. The appellant is therefore not prejudiced by me considering the siting of the garages as part of the main issues of this appeal. For clarity, neither party is disputing the siting of the proposed dwellings, which are consistent with the building line along Grove Way.

Reasons

Character and appearance

4. The appeal site is located within a corner plot at the junction of Grove Way and Cranbrook Drive. These roads largely accommodate detached houses, within spacious plots with large gardens. Properties on both roads follow a consistent building line which provides a pleasant, constant pattern of development. Both

Grove Way and Cranbrook Drive are tree lined. The trees along with the large gardens create a spacious and verdant character.

5. The appeal property is fire damaged and the garden is overgrown, as such, it currently appears as a derelict property, and it is making a negative contribution to the street scene. Nevertheless, from the evidence, the original dwelling would have been similar in appearance to neighbouring properties.
6. The Design and Character SPD Companion Guide¹ identifies the surrounding area as "Ember Lane environs (south)." The guidance explains that the area is a well-established residential suburb of large semi-detached and detached houses and the consistency to materials, plot division, heights and styles of houses creates a homogeneity to the area. This description is reflective of the surrounding development on Grove Way and Cranbrook Drive.
7. Planning Permission² for the construction of a single detached dwelling, following the demolition of the existing home was granted in 2020. Based on the evidence, this planning permission is extant and could be implemented. Also of relevance is the previously dismissed appeal³ for three dwellings, which had a similar layout as the appeal proposal, except the proposed third dwelling has been replaced with garages in this proposal.
8. The appeal proposal would lead to the subdivision of the plot but would accommodate two large semi-detached properties. When compared to the previously dismissed appeal proposal, the proposed dwellings would be set within larger plots and would have increased external amenity spaces. Nonetheless, the proposed garages at the end of the gardens would reduce the amount of amenity space available for future residents. The garages would also reduce the footprint to plot ratio and increase the amount of built development. This would make the proposed dwellings appear cramped and at odds with the spacious and verdant character of the surrounding residential properties.
9. Although the proposed garages are only a single storey, they would include a pitched roof which would extend to approximately twice the height of the surrounding fence line. Due to the location of the appeal site and their proposed siting they would be prominent in views from Cranbrook Drive. These garages would be sited forward of the building line along Cranbrook Drive and would disrupt the pleasing consistency of the prevailing pattern of development. The size and scale of the proposed garages would amplify this effect and would be incongruous to the homogeneity of development in the area.
10. The appeal proposal would lead to the loss of a tree which is subject to a Tree Protection Order (TPO). Based on the evidence, the tree has been pruned due to fire damage and will subsequently not be able to regrow and therefore has a limited life expectancy. Given the condition of the tree it would be suitable for the tree to be removed, despite it contributing to the verdant character of the area. The Council has also conceded on the second reason for refusal which related to the loss of this tree.

¹ Design and Character Supplementary Planning Document Companion Guide: Thames Ditton, Long Ditton, Hinchley Wood & Weston Green, April 2012

² LPA Ref. 2020/2245

³ APP/K3605/W/22/3298875

11. Overall, I conclude that the proposed development would have a harmful effect on the character and appearance of the area; it would therefore be contrary to Policy CS17 of the Elmbridge Core Strategy (CS), July 2011, and Policy DM2 of the Elmbridge Local Plan, Development Management Plan (DMP), April 2015. These policies indicate that new development will be required to deliver high quality design integrating sensitively with the locally distinctive townscape and all development proposals must be based on an understanding of local character.
12. The proposed development would also be contrary to the Design and Character SPD, for the reasons given above, and paragraph 130 of the National Planning Policy Framework (the Framework) which indicates that planning decisions should ensure that developments are sympathetic to local character.
13. Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Given the importance placed on achieving beautiful places by the Framework, I ascribe significant weight to the harm caused by the appeal proposal.

Car parking provision

14. CS Policy CS25 explains that the Council will promote improvements to sustainable travel by applying maximum parking standards to all uses, amongst other things. The Parking SPD⁴ outlines that the appeal proposal should provide a maximum of four car parking spaces. The appeal proposal includes the provision of seven spaces, it therefore does not comply with the standard, and this is accepted by the appellant.
15. Nonetheless, if I were to allow the appeal a condition could be attached to the permission which would require the appellant to submit and the local planning authority to approve a landscaping scheme which would include the layout of car parking spaces. This would allow the appellant to provide a scheme which is compliant with the parking standard.
16. The proposed development could therefore provide appropriate parking provision. It would therefore be compliant with DM policies DM5 and DM7, which indicate that the proposed parking provision should be appropriate to the development and not result in an increase in on-street parking stress and to minimise the impact of development and potential sources of pollution, the Council will seek appropriate conditions to secure mitigation measures. It would also be compliant with CS Policy CS25 and the Parking SPD as outlined above and paragraph 104 of the Framework, which requires the consideration of transport issues at the earliest stage, so that parking and other transport considerations are integral to the design of schemes.
17. For the reasons given above, the removal of the tree subject to a TPO would be acceptable, regardless of the proposed car parking provision. Therefore, DM Policy DM6 which indicates that development proposals should be designed to include tree retention, neither weighs in favour or against the proposed development.

⁴ Parking Supplementary Planning Document, July 2020

Other Matters

18. I accept that the residents of the original dwelling, and future residents of the permitted single detached house, benefitted, or could benefit, from permitted development rights to extend their property. Nevertheless, no substantive evidence has been provided of what could be achieved or that the appellant would seek to use these rights and to what extent. For these reasons, I ascribe very limited weight to the fallback position outlined by the appellant.
19. The appellant explains the alternative is a six-bedroom single dwelling and large detached dwellings are over provided in the area, therefore the appeal proposal makes a better use of the site. A single large dwelling may not be the only acceptable alternative proposal for the site, and I have no substantive evidence that large dwellings are over provided in the area. I therefore ascribe limited weight to this consideration.
20. I acknowledge that the committee report recommended the appeal proposal was approved and there was a lack of objection from consultees. Nonetheless, council members are entitled to make a decision which is opposite to the officer's recommendation and the appeal proposal is assessed on its planning merits only.

Planning Balance

21. Benefits associated with the scheme are the provision of two dwellings in an area where housing land is heavily constrained due to the presence of restrictive planning land designations and a contribution toward affordable housing provision; the provision of electric vehicle charging points, secure cycle storage and high speed internet; and the appeal site being previously developed land within a residential area and the proposal making an effective and efficient use of the land. The appeal proposal not having a harmful effect on the living conditions of neighbours is a neutral factor.
22. There are no policies in the development plan that positively favour development which is harmful to the character and appearance of the area. As the appeal scheme is contrary to the policies listed above, there would be a conflict with the development plan when considered as a whole.
23. It is acknowledged by both parties that the Council cannot demonstrate a five year housing land supply of deliverable housing sites and the Council has underperformed in relation to the Housing Delivery Test. Accordingly, the presumption in favour of sustainable development identified at paragraph 11 of the Framework is engaged.
24. Paragraph 69 of the Framework indicates that small and medium sites can make an important contribution to meeting the housing requirement of an area. There would also be economic benefits associated with the construction of the development and an increase in population to support the vitality of services, as supported by paragraph 86 of the Framework. A sub-section of paragraph 130 of the Framework requires planning decisions to ensure that developments create places that are accessible. The appeal site is in a location which is easily accessible by public transport and by walking or cycling. Nevertheless, these benefits can only be afforded moderate weight given the modest scale of development.

25. Paragraph 126 of the Framework states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Furthermore, a sub-section of paragraph 130 requires planning decisions to ensure that proposals are sympathetic to the local character.
26. The proposal would be contrary to paragraphs 126 and 130 of the Framework. Given the harm caused to the character and appearance of the area and the importance the Framework places on achieving beautiful places, I ascribe significant weight to the harm caused by the proposed development.
27. Paragraph 11 of the Framework advises that decisions should apply a presumption in favour of sustainable development; for decision-taking this means where the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole.
28. In this instance the harm that would be caused would significantly and demonstrably outweigh the benefits of the appeal scheme. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

29. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations including the provisions of Paragraph 11 of the Framework, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
30. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR