



Appeal Decision

Site visit made on 10 October 2023

Decision by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2024

Appeal Ref: APP/K3605/W/23/3320159

22 Oatlands Avenue, Weybridge, KT13 9TN

- 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 D Jarvis of Veda Homes against the decision of Elmbridge Borough Council.
 - The application Ref 2022/2795, dated 15 September 2022, was refused by notice dated 27 February 2023.
 - The development proposed is 8no. flats (6no. x 1 bed and 2no. x 2 bed) within two detached two storey buildings with associated parking, landscaping, refuse and cycle storage areas following the demolition of the existing dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. Chapter 12 of the Revised Framework included updates and seeks to achieve 'well-designed and beautiful places'. Both main parties have had the opportunity to comment on the amendment to the Framework and I have considered the appeal on this basis.
3. The appellant has submitted a second appeal in relation to this appeal site (APP/K3605/W/22/3306090). Whilst the two appeal proposals share similarities, they have been determined as two separate appeal decisions.
4. The appeal submission includes a revised set of drawings which detail the relocation of cycle and waste stores. The Council suggest that to consider the new information provided with this appeal would unacceptably prejudice those who should have been consulted.
5. I have considered these proposed new plans and information taking into consideration the principles established by the Courts in *Holborn Studios Ltd*¹. I am satisfied that it would not be unfair not to reconsult on the changes or that my acceptance of the revisions would deprive those who were entitled to be consulted on the changes that opportunity, given the nature and extent of the changes proposed.
6. In this case, the amended drawings are different from those originally submitted in that they result in different locations for the cycle and waste stores. However, given that the Council and other interested parties have had

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

an opportunity to comment on these amended plans, I have accepted the drawings in line with the Holborn principles. In addition, I note that the Council has suggested a planning condition requiring the submission of further details in relation to the design of the waste store. In this regard, the exact size of the waste store is indicative until the final details have been approved by the Council.

7. The appellant has also provided updated arboricultural evidence in order to respond one of the Council's reasons for refusal. The arboricultural evidence provides additional detail in relation to the effect on nearby trees, rather than any amendments to the proposal. For this reason, I consider that there would be no prejudice to any party by considering the additional information. I have therefore determined the appeal on the basis of the additional information.
8. One of the Council's reasons for refusal is related to the absence of a legal agreement to secure early and late stage review mechanisms towards the provision of affordable housing contrary to Policy CS21 of the Elmbridge Core Strategy (2011) (CS) and the Council's Developer Contributions Supplementary Planning Document (2021). The Council's appeal statement confirms that they have decided to withdraw this reason for refusal but have not provided any commentary on the reasons for this. However, I note that Policy CS21 of the CS does not make reference to the need for early and late stage review mechanisms and therefore I have found no conflict with the policy in this regard and I have not found it necessary to consider this matter further.

Main Issues

9. The main issues are:
 - whether the proposal would provide satisfactory provision for the storage of waste;
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide satisfactory provision for the storage of bicycles; and
 - the effect of the proposal on trees surrounding the site.

Reasons

Waste storage

10. Future occupiers of the proposed flats would have a shared bin storage area located within the passage between the two separate buildings. On bin collection day, the four 1110 litre commercial sized bins would have to be taken from the storage area to the collection point on the frontage of the site.
11. The relocation of the cycle store from the area between the two blocks would, as detailed in the amended drawings submitted with the appeal, improve the available width of the passage, ensuring that there would be adequate space to move the bins up and down the passage.
12. However, the proposal is for eight flats and it is unclear how responsibility for the transfer of the bins from the waste store to the front of the site on collection day would be agreed between the future residents, particularly if any residents were unable to physically move the bins due to their overall size and

potential weight when full. Furthermore, Joint Waste Solutions, who are responsible for the refuse and recycling collection in the borough, have raised concerns about the excessive drag distance from the refuse store to the highway.

13. These factors combined suggest that there is a degree of uncertainty that the proposed arrangement would be feasible, and this could lead to the large bins either not being moved to an appropriate position for collection, or not being returned to the waste store subsequently. I therefore find that the proposal would not make satisfactory provision for waste collection.
14. The proposal would fail to comply with Policies DM5 and DM8 of the Development Management Plan (2015) (DMP), and Policy CS17 of the Elmbridge Core Strategy (2011) (CS). Collectively, these policies require that new development should enhance the public realm and street scene, and that storage points for refuse and recycling are accessible for collection vehicles.
15. The proposal would also fail to comply with the principles of the Design and Character SPD (2012) and paragraph 135 a) of the National Planning Policy Framework (2023) (Framework) which require development to function well and add to the overall quality of the area.
16. The Council also alleges a conflict with Policy CS8 of the CS with regards to this matter. However, my attention has not been drawn to any words in it that are relevant to this issue. The policy has therefore not been determinative in my decision.

Character and appearance

17. The appeal site is located within the Oatlands Park, York Road and Oatlands Chase Environs character area, as defined in the Design and Character Supplementary Planning Document (SPD). The Weybridge Companion Guide to the SPD describes the area as being defined by predominantly mixed residential 20th Century two storey houses at a low to medium density on medium to large plots with some post-war three storey flatted development interspersed throughout.
18. This part of Oatlands Avenue is residential in nature and primarily characterised by detached dwellings laid out in a low-medium density. The width and depth of plots on this side of the road is largely consistent and properties are generally set back from the road behind car parking in a uniform pattern. Mature trees and planting, as well as generous spacing between buildings is a notable positive feature of the area. A notable exception to this is 12 Oatlands Avenue (No 12), the adjoining property to the right of the appeal site, when viewed from the road, which is positioned significantly further forward of the prevailing building line.
19. The existing dwelling at the appeal site is noticeably smaller and lower in height than the neighbouring properties. However, as a result of its diminutive appearance, it is not a prominent feature within the street scene and does not harm the character of the area. When viewed from the highway, properties to the left of the appeal site are generally bungalows or chalet style bungalows with low eaves heights and dormer windows at first floor level. To the right of the appeal site, properties are generally two storey and therefore taller in height and with variation in the widths of front elevations facing the highway.

- Whilst there is a variety of building designs, the predominant materials on the front elevations include brickwork, hanging tiles and decorative bargeboards.
20. The proposal consists of two separate buildings containing flats. Block 01 would be closer to 24A Oatlands Avenue (No 24A) than the existing building. Whilst slightly taller, the design of Block 01's "barn hip" roof, with low front eaves, and first floor dormer windows would reflect the built form of No 24A and other bungalows on this side of Oatlands Avenue. Its roof form would also help reduce its bulk closest to the site's boundary and it would not be positioned uncomfortably close to the neighbouring property.
 21. Block 02 would be taller than Block 01 and, in combination, the blocks would act as a transition between the lower height of the bungalows to the east of the appeal site and the taller houses generally found to the west. Their footprints would also be stepped slightly forward of the properties to the east, creating a transition to No 12 which is positioned much closer to the highway.
 22. I acknowledge that Block 02 would be taller and would also have a greater width than the principal built form of No 12, its immediate neighbour. However, the difference in height and width would not be significant, and given the Block's much greater set back from the highway, it would not appear disproportionately large in comparison to the neighbouring property. The width of the two new blocks would be similar and consequently they would form a visually cohesive pair of buildings.
 23. Whilst both blocks would have crown roofs, due to their size and form they would have small areas of flat roof. Consequently, unlike the roofs of the proposal for the other appeal at this site (APP/K3605/W/22/3306090) they would not be prominent features within the streetscene. The front gable features would visually break up their mass and would reflect the gable ends which are features of many properties on this stretch of the road.
 24. The appellant has provided a statistical comparison of the depths of the proposed blocks, and other nearby properties. This demonstrates that the depths of neighbouring properties fronting Oatlands Avenue range between 7.5m and 14.1m. The proposed blocks would be 11.5m and 12.2 metres in depth. Whilst the blocks' side elevations would be visible in some views from the highway, they would not be unusually deep, and therefore would not appear awkward or uncharacteristic to the area.
 25. The proposed external materials and fenestration, whilst of contemporary design, would be consistent with, and therefore reinforce, the character and appearance of this part of the street scene and the wider area.
 26. For these reasons, the appeal proposal would not harm the character and appearance of the area with particular regard to scale, massing, design and layout. Policy CS17 of the CS and Policy DM2 of the DMP require development to be of high quality design, based on an understanding of local character. In view of my findings, there is no conflict with these policies.
 27. The proposal would also comply with the principles within the Framework and the Elmbridge Design and Character Supplementary Planning Document (2012) (SPD) which expect development to be visually attractive as a result of a good layout whilst maintaining a strong sense of place.

Cycle storage

28. The two cycle stores would be easily accessible from paths located to either side of both Block 1 and 2. The cycle stores would be metal framed, timber clad enclosures, which would be secure, weatherproof and accessible. The submitted drawings indicate that the stores would be sufficiently sized to accommodate one cycle from the occupiers of each of the flats.
29. The submitted drawings indicate that the cycle storage would be in a location previously identified for air source heat pump (ASHP). Whilst a new location for the ASHP provision has not been identified, I understand that locations marked on the plans were indicative. Furthermore, the substantive evidence before me confirms that there would be no method in place to require the future provision of ASHP's as part of the proposal.
30. Consequently, the proposal would provide adequate secure, covered and accessible cycle storage for the future occupiers. Therefore, in this respect, it would comply with Policy CS25 of the CS, Policy DM7 of the DMP and the Council's Parking Supplementary Planning Document (2021). Amongst other aspects these require cycle parking to be integrated into development and to be secure, covered and accessible.
31. I also find no conflict with the principles of the Framework or the Manual For Streets which require development to provide supporting facilities such as secure cycle parking.

Trees

32. The appeal is accompanied by an Arboricultural Statement (March 2023) (AS) prepared by DPA Arboricultural Consultants. This identifies that a Scots Pine tree adjacent to the site, detailed as T1 within the AS is subject to a Tree Preservation Order (TPO).
33. Unlike the submitted evidence for the other appeal at this site (APP/K3605/W/22/3306090) the AS states that site investigations confirmed that there are no roots from the T1 within the footprint of the proposed buildings. Consequently, no special foundation designs or methods would be required.
34. The site investigations included trial pits within the existing paved driveway at the site. Providing the removal of the existing hard surface is undertaken by hand and tools, it is of sufficient depth to enable the removal and replacement with a permeable hard surface, without the need to excavate into the soil below. Consequently, a replacement driveway can be installed without causing any harm to the root system of T1.
35. The main parties agree that the proposed tree and landscaping conditions suggested by the Council, which include a requirement for a site meeting attended by a suitable qualified arboriculturist, representative from the Local Planning Authority and the site manager and the submission of additional arboricultural information is sufficient to ensure that the proposal would not have a detrimental impact on the TPO tree.
36. The trees detailed as Lawson Cypress T2 & T3, Apple T5 and Lawson Cypress T6 & T7 are shown to be removed to facilitate the proposed development. These trees are noted as being BS 5837:2012 Category C (Low Value) trees within the AS and I agree that these trees are not significant within the context of the local or wider landscape. I consider that the loss in the amenity that the

trees to be removed provide can be satisfactorily offset by the planting of new and replacement trees (the exact numbers, sizes, species and positions of which could be confirmed during the discharge of planning conditions).

37. Consequently, the proposal would not have a detrimental impact upon the future health and survival of trees. Therefore, in this respect, it would comply with Policy CS14 of the CS and Policy DM6 of the DMP. Amongst other aspects these require that development proposals do not result in loss of, or damage to trees that are capable of making a significant contribution to the character or amenity of the area.
38. I also find no conflict with paragraph 136 of the Framework which states that trees make an important contribution to the character and quality of urban environments.

Other Matters

39. I acknowledge that Elmbridge as a borough is heavily constrained by land designations and, as such, the availability of land and specifically of brownfield land for development in Elmbridge is limited and faces severe pressure. The Framework seeks to significantly boost housing supply and indicates the value of using suitable land within settlements for homes. It also encourages the optimal use of underutilised land, and states that, where there is a shortage of land for meeting identified housing needs, planning decisions should avoid homes being built at low densities. The proposal would contribute to local housing supply and would represent a more efficient use of previously developed land. These matters weigh in favour of the development.
40. The main parties agree that residential development in this general location is acceptable in principle and the proposal may be compliant with various other provisions of the development plan, for instance the units would meet a need identified within Council documents. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.
41. A number of neighbours have raised other concerns in relation to the development, such as in relation to its effect on neighbouring occupiers' living conditions, parking and highway safety. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.
42. I understand that the appellant undertook pre-application discussions with the Council in advance of the submission of the planning application. However, the concerns expressed regarding the Council's conduct during the processing of the planning application are outside the remit of this appeal decision.

Planning Balance and Conclusion

43. The appellant and the Council are in agreement that the Council cannot demonstrate a 5-year housing land supply. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
44. Paragraph 135 a) of the Framework sets out that planning decisions should ensure that developments function well and add to the overall quality of the

area. Policies DM5 and DM8 of the DMP and Policy CS17 of the CS are therefore consistent with the Framework. In view of my conclusions related to the absence of satisfactory waste storage, the appeal proposal conflicts with both the Framework and the development plan.

45. As described above the benefits associated with 7 (in net terms) additional new homes would be significant. The Framework also gives substantial weight to the value of using suitable brownfield land within settlements for housing. I recognise that the windfall development would incorporate high-quality building fabric alongside renewable technologies. These all weigh in favour of the proposal.
46. However, in my view, the adverse impacts of granting permission, related to the absence of satisfactory waste storage provision, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
47. While I have not found conflict with all policies drawn to my attention, the harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework and the presumption in favour of development, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR