



Appeal Decision

Site visit made on 27 February 2024

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Appeal Ref: APP/K3605/W/23/3324355

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 2022/3696, dated 8 December 2022, was refused by notice dated 24 May 2023.
 - The development proposed is the 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.

Application for Costs

2. An application for costs was made by Mr M Daniel (D&G (Thames Ditton) Ltd) against Elmbridge Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Section E of the appeal form provides a different description of development to that in the application form, albeit it indicates that the description has not changed. For the avoidance of doubt, I have used the description of development provided in the application form in the banner heading above and I have removed reference to the site address which is not in itself development.
4. My attention is drawn to the Council's Regulation 19 Draft Elmbridge Local Plan. I note that the plan is at Examination, and therefore at an advanced stage. However, at the current time it does not form part of the statutory development plan and I have not been directed to any specific policy within the plan. I therefore attach limited weight to the policies within this plan.
5. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. The parties' views have been sought on the potential relevance of the revised Framework. Of note are the changes made at paragraph 77 that, in circumstances where a Council has an emerging local plan that has been submitted for examination, indicates that the housing land supply requirement reduces from five to four years. I have determined the appeal in light of the revised Framework and the parties' representations on it.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

7. No 56 Grove Way (No 56) is a corner plot close to the junction of Grove Way and Cranbrook Drive. The appeal property has a long rear garden, which adjoins Cranbrook Drive and is enclosed to the side by a tall brick wall. There is a detached garage within the rear garden of the appeal site which is placed away from the road. The appeal dwelling is fire damaged and the garden is overgrown, so it currently appears as a derelict property.
8. 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 and sense of openness in this area. The trees and grass verges along these roads create an attractive leafy green feel, which is enhanced by the soft landscaped front gardens.
9. This appeal follows two previously dismissed appeals. The most recent appeal decision is the most relevant, given that the scheme considered had a similar layout to this proposal¹, save for the removal of the parking and driveway accessed from Grove Way, and reduced footprint and height of the detached garage.
10. In their appeal decision, the Inspector concluded that the proposed garages at the end of the gardens would appear cramped. The Inspector also commented on the position and height of the proposed garages, which would be prominent in views along Cranbrook Drive.
11. The proposed garages would be marginally smaller in footprint than those included in the previously dismissed appeal. As such, as was considered by the Inspector in relation to that scheme, the proposal would reduce the footprint to plot ratio and increase the amount of built development, thereby appearing cramped markedly at odds with the spacious and verdant character of the area.
12. Despite the limited reduction in height, the garages would be approximately twice the height of the boundary wall. Due to their position and siting, the garages would be prominent in views from Cranbrook Drive, thus disrupting the pleasing consistency of the prevailing pattern of development.
13. In conclusion, the proposal would have a harmful effect on the character and appearance of the area, contrary to Policy CS17 of the Elmbridge Core Strategy 2011 and Policy DM2 of the Elmbridge Local Plan, Development Management Plan 2015. These policies indicate that new development will be required to deliver high quality design and be based on an understanding of local character. The proposed development would also be contrary to the Design and Character Supplementary Planning Document Companion Guide: Thames Ditton, Long Ditton, Hinchley Wood & Weston Green 2012, insofar as it would fail to respect the homogeneity of this area. The proposal would fail to accord with the Framework, which supports development that is sympathetic to local character.

¹ Appeal Ref: APP/K3605/W/23/3314257

Other Considerations

14. Notwithstanding my findings above, the appellant has made reference to a Certificate of Lawfulness which confirms that planning permission is not required for an outbuilding in the rear garden.
15. The Court of Appeal in *Mansell v Tonbridge and Malling BC & others [2017] EWCA Civ 1314* confirms that there should be a “real prospect” of a fallback development being implemented and that the decision-maker should exercise their planning judgment as to whether that would be the case depending on the particular circumstances.
16. The appeal dwelling has been badly fire-damaged and has been structurally condemned, so it is uninhabitable. On this basis, I find it unlikely that the outbuilding would be constructed in the rear garden. Further, the fact that a planning permission for a replacement dwelling on this site has lapsed, together with the three applications for more than one dwelling, lend considerable weight to the argument that there is limited intent by the appellant to provide only one dwelling on this site and, consequently, for the outbuilding to be delivered. As such, whilst I note the appellants assertion that the Certificate of Lawfulness provides evidence of intent, this is limited in nature. Therefore, only limited weight can be given to the fallback argument.
17. In light of the above, the fallback argument would not alter my conclusion on the main issue and is a consideration which I find does not weigh significantly in favour of the proposed development.

Planning Balance and Conclusion

18. The Council has an emerging plan which has been submitted for examination, thereby meeting the requirements of paragraph 226 of the Framework. Consequently, the Council is required to demonstrate a four-year supply of deliverable sites other than the minimum of five as set out in paragraph 77 of the Framework.
19. The Council sets out that it can demonstrate a 4.58-year housing land supply. The Council’s latest Housing Delivery Test measurement is under 95%. I have received no evidence to dispute these matters. As such, the tilted balance under paragraph 11(d) of the NPPF is not engaged in this instance.
20. In light of the above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

P Terceiro

INSPECTOR