



Appeal Decision

Site visit made on 28 March 2024

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 31 MAY 2024

Appeal Ref: APP/K3605/W/23/3324132

Grace Lodge, 4 Manor Road South, Esher, Surrey KT10 0QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by ASPI Homes Surrey Ltd t/a ASPI Homes against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/0342.
 - The development proposed is change of use, partial demolition of an existing building, conversion to dwelling house, and an additional 3-bedroom dwelling with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for change of use, partial demolition of an existing building, conversion to dwelling house, and an additional 3-bedroom dwelling with associated parking and landscaping at Grace Lodge, 4 Manor Road South, Esher, Surrey KT10 0QL in accordance with the terms of the application, Ref 2023/0342, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have been provided with a copy of another appeal decision, concerning change of use and demolition of existing buildings, two replacement buildings comprising four 3-bed dwellings at the appeal site, which was dismissed in January 2024 (the January 2024 decision)¹. The Council was given the opportunity to comment on the relevance of the January 2024 decision, although no comments were received. I have had regard to the January 2024 decision within my consideration of this appeal.
3. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. The main parties have had the opportunity to comment on the revised Framework in respect of the appeal, and I have determined the appeal in light of the updated Framework.
4. During the course of the appeal, the appellant submitted an executed Unilateral Undertaking pursuant to s106 of the Town and Country Planning Act 1990, dated 18 January 2024 (the UU). The UU contains a planning obligation that would secure a financial contribution of £27,020 towards the provision of off-site affordable housing. The extent to which the provisions within the UU meet the tests set out in the Framework and Regulations 122 of the Community Infrastructure Regulations 2010 (the 122 Regs), is dealt with later in this decision.

¹ APP/K3605/W/23/3316875

Background and Main Issues

5. The Council's decision notice gave three reasons for refusal, the third of which related to the absence of a legal agreement to secure financial contributions towards the provision of affordable housing and a Late Review Mechanism (LRM). Subsequently, the Council has confirmed it was no longer pursuing its objection in respect of the LRM element of its third reason for refusal. On this basis, I consider the main issues in this appeal are:
- whether the proposed development would maximise the efficient use of urban land, in order to meet the Borough's identified housing need;
 - whether the proposed development satisfactorily avoids piecemeal development;
 - whether it is appropriate to develop the appeal site in isolation rather than as part of a comprehensive development; and,
 - whether the proposed development would make appropriate provision for affordable housing.

Reasons

Efficient use of urban land

6. The appeal site is located within a residential area characterised by large, detached houses set within generous plots. Formerly in use as a care home, the appeal building is part two-storeys and part single-storey and occupies a large corner plot fronting Manor Road South that rounds to the Kingston Bypass.
7. The appeal scheme proposes to demolish the single-storey element of the extant building and convert the two-storey element in a detached 4-bedroom dwelling; as well as the erection of a new detached 3-bedroom dwelling. Both dwellings would be accessed from Manor Road South and have gardens to the rear.
8. The Council contends that the proposal would fail to promote the best use of urban land by falling under the overall housing density targets set out in Policy CS17 of the Elmbridge Core Strategy (CS) 2011. The Council has estimated the proposed development would equate to a density of around 25 dwellings per hectare (dph), which falls short of the minimum requirement of 30dph and in turn, the target of 40dph, both set out within Policy CS17.
9. The proposed development would maintain the established building line along Manor Road South, the prevailing two-storey form and spacing between dwellings and be consistent with the surrounding pattern of development. The Council raise no objection to the effect of the proposed development on character and appearance and I see no reason to disagree.
10. The Council has previously refused to grant planning permission for a higher-density, 4-unit scheme at the appeal site for, amongst other reasons, harm to the character and appearance of the area. Other development proposals also included development of neighbouring sites at 4 Greenways and 6 Manor Road South, to provide 35 specialist accommodation units, which were also refused

planning permission and dismissed on appeal². The decisions made by the Council and Inspectors indicate that a higher-density scheme would fail to integrate sensitively with the spacious suburban character and appearance of the area.

11. The other higher density, 4-unit scheme at the appeal site would have delivered only two more dwellings. Whilst it is unclear whether an alternative higher-density scheme for more than two dwellings would be unacceptable, the Council's and the Inspector's decisions cast doubt whether achieving a higher density scheme would come at the cost of the area's spacious suburban character.
12. Policy CS17 sets out that in exceptional circumstances, where overriding harm to the valued character of area would occur ... development at a lower density, which maximises the efficient use of land, may be acceptable. Notwithstanding that the proposed development would fall below the target dph within this Policy, it would protect the valued character of an area and thus would promote the best use of urban land relative to its context whilst meeting the Borough's identified housing need.
13. Policy CS19 of the CS states the Council will promote a mix of house types, such to reflect the most up to date Strategic Housing Market Assessment (SHMA). The Framework no longer includes a requirement to produce a SHMA, however, my attention has been drawn to the Local Housing Needs Assessment (LHNA) 2020 which identifies the overall need within Elmbridge is for affordable and smaller units, namely 1–3-bedroom dwellings.
14. Due to the small number of dwellings proposed, it would not be possible to strictly adhere to the percentage requirements set out in the LHNA resulting in a degree of conflict with Policy CS19 of the CS. However, this conflict amounts to the size of one dwelling and more specifically, one additional bedroom. Bearing in mind the proposal would offer a mix of sizes of dwellings and increased choice in the homes available in the Borough, I consider the extent of the conflict would be limited.
15. Notwithstanding the LHNA indicates there is limited need for 4-bedroom units in the Borough, the proposal would also accord with the requirements of the Framework in relation to making an efficient use of land whilst also taking into account the identified need for different types of housing and would therefore deliver an appropriate mix of housing types. I am therefore satisfied that the proposed development would maximise the most efficient and effective use of land and accord with Policy CS17 and CS19 of the CS and the Framework.

Comprehensive development

16. Policy DM4 of the Development Management Plan, 2015 (the DMP) encourages comprehensive development that achieves a co-ordinated approach with adjoining sites, especially where it may result in additional benefits to the Borough. It also seeks to avoid piecemeal development through comprehensive development of adjacent sites, and for proposals to demonstrate that all reasonable attempts to develop the sites comprehensively have been exhausted.

² APP/K3605/W/18/3214052

17. Number 6 Manor Road South (No. 6) is a detached two-storey dwelling adjacent to the appeal site and occupies the corner plot with Greenways. Number 4 Greenways (No. 4) is accessed off Greenways and the plot extends to the rear of the appeal site. No. 6 is not in the same ownership as the appeal site, whereas No. 4 is. The Council's officer report indicates that there have been recent planning applications submitted at both No. 4 and No. 6.
18. From the evidence, the planning application relating to the redevelopment of No. 6 dates from 2018³ and there is no evidence that convincingly indicates that all attempts to develop the sites comprehensively have been exhausted. However, given the different ownership and the time since that has elapsed since a planning application was submitted, the development potential for this site is unclear and that a co-ordinated approach between this and the appeal site would be feasible.
19. As No. 4 and the appeal site both fall within the same ownership, and lie adjacent to each other, there is conceivably scope for the two to be development in a comprehensive way. My attention has been drawn to a planning application under consideration for the comprehensive development of both sites⁴. Whilst I have not been supplied with any further details of this scheme, it indicates that the potential for comprehensive development has not at this time been fully explored. The appellant considers that the purchase of the two sites at separate times is a barrier to comprehensive development, however, given the aforementioned planning application I am not satisfied this precludes comprehensive development in this case.
20. The Council have indicated that in this case comprehensive redevelopment could lead to a higher density of development. However, even if there is scope for comprehensive development, there is no evidence before me as to how such an increase would be achieved, compared to if the sites were brought forwards separately. Even if a more advantageous scheme may be delivered if sites come forward in a co-ordinated manner, the Council has previously refused a higher-density scheme, including for reasons relating to the pattern of development and detrimental impact on local character. This would potentially contribute to some uncertainty as to whether a scheme that developed the adjoining sites comprehensively would achieve additional dwellings. Furthermore, there is no evidence that convincingly shows that additional benefits to the Borough, such as in respect of improved access arrangements or a wider housing mix would come about from development the two sites comprehensively.
21. For the above reasons, I find that the proposed development satisfactorily avoids piecemeal development. As such, there would be no conflict with Policy DM4 of the DMP and the policies of the Framework that seek to promote the efficient use of land.

Affordable housing

22. On sites of 1-4 dwellings, Policy CS21 of the CS requires that the provision of affordable housing through a financial contribution equivalent to the cost of 20% of the gross number of dwellings. This policy is not consistent with the Framework, notably paragraph 65 which states that affordable housing should

³ 2018/0746 and appeal ref APP/K3605/W/18/3214052

⁴ 2023/2580

not be sought for residential developments that are not major developments, unless they are within designated rural areas (where policies may set out a lower threshold of 5 units or fewer). This is consistent with the Written Ministerial Statement (2014) (WMS), and the Planning Practice Guidance (PPG). These aim to ensure that financial contributions do not place undue hardship on small developments which could risk frustrating housing delivery.

23. The Council's Statement on Affordable Housing Provision on Small Sites (Update) (October 2021) (the SAHP) shows that, in the majority of cases, developers of small sites have been able to meet the affordable housing requirement set out in Policy CS21 in full, without any viability concerns. Where viability issues have been evidenced, the Council has either reduced the contribution requirement or waived it completely, thereby ensuring such requirements do not impede housing delivery.
24. The SAHP suggests that the acute need for affordable housing in Elmbridge has been caused by its very high house prices, which are significantly above regional and national averages. It also demonstrates the importance of smaller sites to the provision of affordable housing in the area, and that without such contributions, the Council's capacity to deliver such housing would be very limited. Therefore, based on this evidence, the Framework's provisions do not outweigh the development plan in this instance.
25. A legal agreement has been submitted which would secure a contribution of £27,020. The sum sought has been justified by a Financial Viability Assessment (FVA) together with a further review undertaken by the Council. Given a site-specific viability assessment has been undertaken, which has informed the level of the contribution, I am satisfied that this would not place a disproportionate burden on the developer(s). Therefore, the planning obligation to secure financial contributions for affordable housing is necessary to make the development acceptable and directly related to it and the planning obligations and submitted UU satisfies the tests set out under the 122 Regs and paragraph 57 of the Framework. It follows that I am satisfied that the proposed development would make an appropriate provision for affordable housing in accordance with Policy CS21 of the CS.

Conditions

26. The Council has suggested a number of conditions in the event of my allowing the appeal, I have considered these in accordance with the Planning Practice Guidance and the Framework. I have edited some of the suggested conditions for clarity and enforceability.
27. Conditions to limit the timeframe for implementation together with a plan numbers condition, are required in the interests of certainty. Conditions to secure tree protection measures ahead of any other groundworks or demolition, to protect trees to be retained from the construction process, and preventing the removal of any retained tree within the first five years of the development are reasonable and necessary in the interests of the character and appearance of the area. Conditions that would secure the external materials and landscaping works are also necessary to protect the character and appearance of the area and to secure adequate drainage.
28. It is necessary to impose conditions that require further details of vehicle and cycle parking are required in the interests of highway safety and to maximise

the sustainability of the proposal. A condition to secure details of obscure glazing is necessary in order to protect the privacy of future occupiers. While a condition to secure the recommendations set out in the ecology report is required to safeguard and enhance biodiversity and protected species on site.

29. The Council suggested details of electric vehicle charging should be secured by condition. However, electric vehicle charging points are required through Building Regulations, and it would be unreasonable and unnecessary to add a condition for this. As the proposed development for two detached dwellings in established residential area, I do not consider it would be reasonable or necessary to require details relating noise insulation and ventilation systems even if the appeal site is close to the Kingston Bypass.

Conclusion

30. In conclusion, the proposed development would accord with the development plan and material considerations do not indicate a decision should be taken other than in accordance with it.

31. For the reasons given above the appeal should be allowed.

R Lawrence

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 0386-OBA-00-GF-DR-A-0251 Ground Floor GA Plan Proposed, 0386-OBA-00-ZZ-DR-A-0102 Proposed Site Plan, 0386-OBA-00-ZZ-DR-A-0601 Visualisation 1, 0386-OBA-A-0502 Cycle Storage, 0386-OBA-00-ZZ-DR-A-0450 East Elevation Proposed, 0386-OBA-00-ZZ-DR-A-0454 East Street Elevation Proposed, 0386-OBA-00-01-DR-A-0252 First Floor GA Plan Proposed, 0386-OBA-00-ZZ-DR-A-0453 North Elevation Proposed, 0386-OBA-A-0501 Refuse Storage & Pickup, 0386-OBA-00-ZZ-DR-A-0350 S-01 Building Section Proposed, 0386-OBA-00-ZZ-DR-A-0451 South Elevation Proposed and 0386-OBA-00-ZZ-DR-A-0452 West Elevation Proposed.
- 3) No development hereby permitted shall take place, including any groundworks or demolition, and no equipment, machinery or materials shall be brought onto the site for the purposes of the development, until all the tree protection measures shown on D2878.V2.0-A3-TPP(AIA) have been installed in accordance with the plan. The tree protection measures shall be thereafter retained and maintained for the course of the development. The development thereafter shall be implemented in strict accordance with the approved details and method statement contained in the Arboricultural Impact Assessment by Dryad tree specialists, reference number D2878.V2.0-AIA dated 26 January 2023.
- 4) No development above slab level shall take place until full details of the materials to be used on the external faces and roof of the proposed development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter.
- 5) The development hereby approved shall not be first occupied until a scheme of the following landscaping works have been submitted to and approved in writing by the Local Planning Authority and the works have been carried out as approved. This scheme shall include:
 - a) positions, height, species, design, materials and type of boundary treatment(s)
 - b) hard surfacing materials, including permeable paving
 - c) on-site soakawaysDevelopment shall be carried out in accordance with the approved details and shall be maintained thereafter.
- 6) Notwithstanding the details shown on the approved plans, the development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority, for 4 vehicles and cycles to be parked. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 7) The development hereby permitted shall not be occupied until the side windows at first floor level of Unit 1, shown as serving a bathroom and a cupboard, as well as the first floor window to unit 2 shown as serving the ensuite to bedroom 1, have been fitted with obscured glazing, and no

part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

- 8) No retained tree, hedge or hedgerow shall be removed, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the first occupation of the approved development, other than in accordance with the approved plans and details.

If any retained tree, hedge or hedgerow is removed, uprooted or destroyed or dies, another tree, hedge or hedgerow of similar size and species shall be planted at the same place, no later than the next available planting season.

- 9) The development shall be carried out in accordance with the recommendations and enhancements set out at chapter 4.2 of the Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey by Arbtech, dated 03 February 2023.