



Appeal Decision

Site visit made on 10 October 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 June 2024

Appeal Ref: APP/K3605/W/22/3312666

West Acre, 9 Claremont Park Road, Esher, Surrey KT10 9LT

- 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 Roy Kemp of Claremont Fan Court School against the decision of Elmbridge Borough Council.
 - The application Ref 2022/1375, dated 2 May 2022, was refused by notice dated 6 July 2022.
 - The development proposed is the change of use of the existing residential dwelling (Use Class C3) to education use (Use Class F1) ancillary to the Claremont Fan Court School, and the creation of a new pedestrian access.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the existing residential dwelling (Use Class C3) to education use (Use Class F1) ancillary to the Claremont Fan Court School, and the creation of a new pedestrian access at West Acre, 9 Claremont Park Road, Esher, Surrey KT10 9LT in accordance with the terms of the application, Ref 2022/1375, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Roy Kemp of Claremont Fan Court School against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Council's appeal statement indicated that it did not wish to maintain the second reason for which it had refused planning permission, which related to traffic and highways. Nevertheless, during the appeal that matter was the subject of a large number of representations from interested parties, and I have retained it as a main issue.
4. The Government published revised versions of the National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the July 2021 version extant at the time the application was determined, and again on 19 December 2023. The amendments made did not have any bearing on the main issues in this appeal, and it was not therefore necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.

Main Issues

5. The main issues are:

- Whether the proposed development would lead to the unacceptable loss of a housing unit; and
- Whether the development would have an unacceptable adverse impact on traffic flows or highway safety in the area.

Reasons

Loss of housing

6. West Acre is a two-storey (plus rooms at attic level) house on a spacious plot within the private Claremont Park residential estate ("the estate"), an area of large and individual properties set within generous private gardens around the open spaces of Clare Hill golf course to the north and Claremont Park ("the Park") to the south and west. Claremont Fan Court School ("the school") is a private day school operating from a range of buildings within the Park.
7. The school has acquired West Acre proposing to use it as offices, intending to relocate various administrative functions from other buildings across its site. A new gateway on the north-western boundary of the appeal site would allow pedestrian access between West Acre and the existing school site.
8. Policy CS2 of the 2011 Elmbridge Core Strategy ("the ECS") seeks to provide and protect a supply of housing in the borough; among other things, it states that developments that involve a net loss of housing will be resisted unless it can be demonstrated that the benefits of the development outweigh the harm. Policy DM10 of the 2015 Elmbridge Development Management Plan ("the EDMP") supports the aims of CS2, and provides more detail of matters to be taken into consideration in assessing this balance under CS2. These include the type and quality of accommodation that would be lost, the contribution the lost housing makes to the range of housing in the borough (including low-cost housing that supports local businesses), and the importance of the new use to the community.
9. West Acre is a large dwelling with six bedrooms (albeit that, based on what I saw during my site visit it is perhaps still one of the smaller houses within the estate). The house appears to have been well-maintained, and is in what is evidently a very attractive and desirable neighbourhood; in continued use as a dwellinghouse it would make a contribution to the availability of high-quality housing in the borough.
10. At the same time, the house is considerably larger than the one-, two- and three-bedroom units which the 2020 Assessment of Local Housing Need for Kingston and North Surrey ("the ALHN") identifies as being most needed within the area. Within Elmbridge the identified need is for only 1% of new housing to have four or more bedrooms. I recognise that the ALHN looks at the need for *new-build* housing in the light of the make-up of the existing housing stock, but it is clear all the same that the area is very well-provided with large houses. There is nothing to suggest that West Acre has made any contribution to meeting low cost or similar housing need in the borough, or that it would make such a contribution in the future if it were to continue in private residential use.

11. Pupil numbers at the school have increased from around 885 in 2019 to somewhere close to 1,100 at the present time, and as a consequence the school is finding its classroom, office and support spaces under pressure. The proposed relocation of administrative functions to West Acre would free up the space they currently occupy within the school's existing buildings for use as classrooms, expanded dining facilities, and a pastoral office/pupil walk-in centre.
12. The provision of a choice of good-quality school places is an important consideration for the local community. The Framework emphasises at Paragraph 99 that plan preparation and planning decisions "should give great weight to the need to create, expand or alter schools". The school serves a large catchment area across Surrey and south-west London and the benefits to this broad (if rather dispersed) community of enhancing its educational provision, including by freeing up more, or more flexible, spaces for teaching and pastoral support would, in my view, be considerable.
13. I note also that the school site has a number of planning constraints which influence on what it may be able to do in terms of altering and expanding its existing buildings, or constructing new ones. The Park is registered Grade I for its special historic interest, the school's numerous buildings include three which are listed (among them the main school building Claremont House, which is Grade I listed – I return to address heritage matters below), and the entire school site is within the Green Belt. None of these factors is determinative on its own, and I have not attempted to investigate more fully the potential for converting or extending the school's other buildings; my role is to consider the specific proposal which is before me as it relates to West Acre. Nevertheless, together they serve to illustrate the challenges facing the school which have led it towards proposing this scheme.
14. The change of use would mean the loss of one unit of housing. This comes at a time when there is evidently a struggle to meet the overall housing need in the borough – there is no dispute between the main parties that the Council cannot currently demonstrate a 5-year housing land supply. In this light, some harm would arise from the loss of even a single unit of housing. However, this harm would be very limited in scale and, having regard to all the factors I have summarised above, I consider that it would be outweighed by the benefits of the scheme.
15. I therefore conclude that the loss of a housing unit arising from the proposed development would not be unacceptable. It would therefore comply with Policy CS2 of the ECS and Policy DM10 of the EDMP, the relevant provisions of which I have set out in paragraph 8 above.

Traffic and highways

16. There are two main vehicular access routes to the school. These are from the A244 Claremont Lane/Copsem Lane to the north-east via the private Claremont Drive (which runs through the residential estate), and from the A307 Portsmouth Road to the north-west, via a private driveway which gives access directly onto the school site. It is apparent from the evidence before me that the signalised junction of Claremont Lane/Copsem Lane with Claremont Drive and Milbourne Lane is something of a congestion blackspot at peak times (though at the time of my site visit, which took place at around noon on a weekday, traffic was passing through the junction reasonably freely). The

Portsmouth Road access on the other hand, although not signalised, has been designed for a much greater traffic load.

17. The appellant submitted a Transport Assessment¹ ("the TA") which looked at the change in traffic flows on and around the two access roads between 2013 and 2022. During that period the number of pupils at the school had risen from around 700 to around 1,100, following a grant of planning permission for a redevelopment scheme in 2015². On the basis of the TA, the County Highway Authority advised the Council that there had been "a reduction in vehicle movements on Claremont Drive between 2013 and 2022 and an increase in movements at the Portsmouth Road access over the same period", that it is "reasonable to conclude that the Portsmouth Road access is the preferred access point for the school and its users". The Council noted that the additional information in the TA had allowed the impact of the proposal on the local highway network to be properly assessed, and stated that its objection on this matter had been overcome.
18. Notwithstanding the Council's stance, I note the further points made on this matter by interested parties, in particular representations made on behalf of the Claremont Park Residents' Association. This included the observations (based on their own traffic surveys) that traffic flows inbound to the school had increased during the morning peak; that a reported decrease in traffic movements in the afternoon peak reflected the measurement of flows over a single hour, and so did not accurately reflect an apparent increase in total movements over a longer (five hour) peak period; and that the Claremont Lane/Copsem Lane junction is operating above capacity. On the basis of these observations, it was also suggested that the school was not meeting its travel targets in respect of the 2015 planning permission.
19. I recognise the concern which local residents will have about traffic, especially within the relatively narrow roads of the estate. However, none of these matters is directly related to the potential impacts of this appeal scheme. The question of whether the school is complying with conditions or obligations relating to the 2015 permission (though I note also the appellant's response to these points) is a matter on which the Council may wish to take action if it considers it necessary and appropriate; it is not something for me to address in determining this appeal. The appeal scheme is not predicated on a further increase in pupil numbers attending the school, nor is there anything before me to suggest that the use of West Acre for administrative purposes would otherwise lead to a significant increase in the number of staff or visitors arriving at the "wider" school site (i.e. West Acre and the existing school) by private car.
20. At the same time, I recognise the need to protect living conditions for nearby residents, in particular to prevent unacceptable disturbance which may be caused by the coming and going of vehicles along the narrow cul-de-sac lane Claremont Park Road which leads to West Acre. This could be achieved by ensuring that staff and visitor car parking for the whole site (including West Acre) continues to be directed to the existing car parks within the existing school grounds, primarily via the Portsmouth Road entrance. To this end, I

¹ Transport Assessment, Proposed Extension & Reconfiguration Claremont Fan Court School – ADL Traffic & Highways, November 2022

² LPA Ref: 2013/4029

note that the "Transport Note" submitted with the planning application³ states that "the existing access [to West Acre] will only be utilised by individuals servicing or maintaining the property. All pupils, members of staff and parents where necessary will use the newly created pedestrian access between the school and the property". This commitment would need to be secured in order to make the development acceptable.

21. The appeal statement was accompanied by a "School Travel Plan", which aims to reduce or discourage car use to and from the appeal site. On my reading of it, the travel plan does not appear to include specific measures to ensure that staff and visitors would not park cars at West Acre, and that vehicular access would only be available for service and maintenance purposes. However, these omissions could be relatively simply dealt with by a condition requiring the submission and approval of a parking and access plan for West Acre to supplement the Travel Plan.
22. Subject to such a condition, I am satisfied that the proposed development would not have an unacceptable adverse impact on traffic flows or highway safety in the area. It would therefore comply with Policy CS25 of the ECS and Policy DM7 of the EDMP; together, and among other things, these policies seek to promote improvements to sustainable travel, ensure that the layout and siting of accesses is acceptable (including in respect of amenity, capacity, safety, noise and visual impact), and the impact of vehicle and traffic nuisance is minimised, particularly in residential and other sensitive areas. There would also be no conflict with the provisions of the Framework which seek to promote sustainable transport, and which advise that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

23. The appeal site is within Claremont Park, a Grade I registered park and garden⁴. There are also a number of listed buildings nearby: the Grade I listed Claremont House, the Grade II* listed White Cottage, and the Grade II listed The Close. All of these are designated heritage assets, and I have a statutory duty, set out in Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the listed buildings, their settings, or any features of special architectural or historic interest which they possess. Paragraph 205 of the Framework also states that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)".
24. Claremont Park is a site of around 58 hectares, comprising extensive pleasure grounds, parklands, woodlands and former kitchen gardens, shaped over the years by figures including Sir John Vanbrugh, Charles Bridgeman, and Capability Brown. Claremont House, now home to Claremont Fan Court School, is the focus of the park. The significance of Claremont Park, insofar as it relates to this appeal, is evidently derived from its long history, the quality of its landscape design which reflects the influences of various important figures in

³ Transport Note – ADL Traffic & Highways, 20 April 2022

⁴ Official list entry number 1000324

that field, and its associations with numerous historic names including Lord Clive (of India) and various members of the British royal family. In determining the planning application the Council noted that the proposed development does not include alterations to the external features of West Acre, other than the creation of the access way between the appeal site and the existing school ground which it was satisfied would not have any adverse impact in design or heritage terms. Based on everything I have seen and read, I agree with that assessment.

25. In terms of the listed buildings, the Council noted the separation between them and the appeal site. I saw during my site visit that West Acre is surrounded to the east, south and south west by areas of dense tree planting which act as a visual screen. This screening and separation, the lack of physical works, and the fact that the school is already a significant presence in and around the listed building, means that the proposed development would not have any notable impact on the setting of the listed buildings. Taking the heritage considerations together, I am satisfied that the significance of the registered park, and the setting of the listed buildings, would be preserved.
26. A significant number of interested parties provided comments on this appeal. Many of these submissions related to matters which I have addressed above in considering the main issues.
27. I note objections to the effect that the proposed development would represent an incursion or intrusion of the school into the residential part of the estate. Strictly speaking, of course, this is true; the scheme would mean the incorporation of an existing private house and garden into the school. However, the school already almost totally surrounds West Acre; there are school buildings to the south and east of the appeal site, and parts of its extensive playing fields to the north and west. Only a small part of the north-eastern edge of the appeal site is close to a residential neighbour, and even then a narrow lane or alley separates the two properties.
28. The submitted location plan shows that there are already school buildings and grounds closer to the other surrounding houses than would result from this proposed development. The Council was satisfied that the scheme would not have any significant adverse impacts on neighbours' living conditions or, in its broadest sense, the character of the area. Based on all the evidence before me, including my observations on site, I agree.
29. It was put to me that there are restrictive covenants in place which would preclude the implementation the development, including the provision that plots are restricted to one house and that these are to be used for residential purposes only. That may well be the case; however, this is a private legal matter which would need to be resolved by the landowners, and is something which sits outside the scope of this planning appeal.

Conditions

30. I have considered the conditions suggested by the Council having regard to the tests in the Framework and advice in the Planning Practice Guidance, as well as the appellant's comments in response. Where necessary I have altered the proposed wording in the interests of clarity, accuracy or effectiveness.

31. In addition to the standard time limit condition (1), in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans (2). A condition restricting the use of West Acre to purposes connected and ancillary to Claremont Fan Court School is necessary to protect the character and amenity of the area, in accordance with the provisions of Policy DM2 of the EDMP. A condition in respect of operating hours (4) is necessary for the same reasons, although in the light of the need for the administrative functions to be able to operate at the same time as the wider school (including at weekends), as well as the appellant's observations about the spatial relationships between the existing school site, West Acre, and the residential neighbours, the condition is less restrictive than originally suggested by the Council.
32. A condition relating to details of the pedestrian access between West Acre and the existing school site, including materials (5) is necessary to protect the character and appearance of the area, and the Grade I registered park, and to comply with the requirements of Policy CS25 of the ECS and Policies DM2 and DM7 of the EDMP. Finally, a condition in respect of parking and access (6) is necessary for the reasons I have set out in paragraphs 20 and 21, and to comply with the provisions of Policy CS25 of the ECS and Policy DM7 of the EDMP.

Conclusion

33. I have found that the proposed development would comply with the development plan, taken as a whole. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

M Cryan

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
 - 2141 TP(00)00 – Site Location Plan
 - 2141 TP(00)01 – Existing Block Plan
 - 2141 TP(00)02 – Proposed Block Plan
 - 2141 GA(10)01 – Proposed Ground Floor Plan
 - 2141 GA(10)02 – Proposed First Floor Plan
 - 2141 GA(10)03 – Proposed Second Floor Plan
 - 2141 GA(10)04 – Proposed Roof Plan
 - 2141 GA(12)01 – Existing and Proposed Elevation 1
 - 2141 GA(12)02 – Existing and Proposed Elevation 2
 - Planning Statement (Solve Planning, May 2022)
 - Transport Note (ADL Traffic & Transport, 20 April 2022)
 - Transport Assessment (ADL Traffic & Highways, November 2022)
 - School Travel Plan (ADL Traffic & Highways, November 2022)
- 3) The premises shall be used for education purposes connected and ancillary to Claremont Fan Court School and for no other purpose (including any other purpose in Class F1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) The use hereby permitted shall only take place between the following hours:
0700-2200 Mondays to Fridays
0800-1800 Saturdays
0900-1300 Sundays
- 5) No part of the development hereby permitted shall be occupied until full details of the pedestrian access, including boundary treatments, external materials and any other associated works, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless any variation is agreed with the Local Planning Authority.
- 6) No part of the development hereby permitted shall be occupied until a supplementary parking and access plan has been submitted to and approved in writing by the Local Planning Authority. The parking and access plan will include measures to ensure that the existing entry to West Acre from Claremont Park Road is not used for vehicular access other than for servicing or maintaining the property, and that other vehicles (whether belonging to visitors or school staff) are directed to use car parks within the main school site. Development shall be carried out in accordance with the approved parking and access plan unless any variation is agreed with the Local Planning Authority.