



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: 10 June 2024

Appeal Ref: APP/K3605/W/23/3325228

27 Clinton Avenue, East Molesey KT8 0HS

- 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 Gundogan against the decision of Elmbridge Borough Council.
 - The application Ref 2022/3697, dated 16 January 2023, was refused by notice dated 13 March 2023.
 - The development proposed is the erection of 2-storey terrace of 3[no] houses with forecourt parking and associated landscaping following demolition of existing bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of their submission the appellant has provided a Daylight and Sunlight Report, Parking Stress Survey, swept path analysis / tracking for the middle parking space and details of bicycle storage. These details provide further clarification in relation to the reasons for refusal, so I am satisfied that they would not result in a fundamental change to the application. The parties have had the opportunity to comment and, as such, I am satisfied that no prejudice would occur were I to consider the information as a part of the appeal. I have proceeded on this basis.
3. The Daylight and Sunlight Assessment addresses the third reason for refusal, as the Council acknowledges that the appeal submission has demonstrated satisfactory lighting levels. I see no reason to disagree and, accordingly, I have not considered this matter any further.
4. The fifth reason for refusal relates to the absence of a signed legal agreement to secure a Late Review Mechanism for a potential financial contribution towards the provision of affordable housing. However, following receipt of recent appeal decisions, the Council is not currently seeking review mechanisms and has confirmed that it no longer wishes to pursue this reason for refusal. On this basis, I have not considered this matter any further.
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 indicates, in circumstances where a Council has an emerging local plan that has been submitted for examination, 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 Issues

6. The main issues are the effect of the proposal on:

- the character and appearance of the area;
- the living conditions of the occupants of Nos 25 and 29 Clinton Avenue with particular regard to daylight and outlook; and
- highway safety, with regard to bicycle storage provision and the availability of on-street parking provision.

Reasons

Character and appearance

7. No 27 Clinton Avenue is a modest plot comprising a detached bungalow that occupies most of the width of the plot. Clinton Avenue is a narrow road characterised by a diverse mix of individually designed bungalows and two-storey detached and semi-detached dwellings of varying scales, sizes and heights. The dwellings within the street have small gaps to their side plot boundaries as well as legible frontages and are generally accommodated in wide plots with frontage parking and soft landscaping.
8. The proposed terrace has been designed to appear like a single dwellinghouse, with units 1 and 3 having side entrances. However, despite the front door on unit 2, the proposal would result in a development markedly at odds with the street scene where the dwellings have their entrances facing the road. Furthermore, the introduction of a terrace of three dwellings on this modest plot would detract from the prevailing pattern of development within the locality, which comprises wider plots accommodating one dwelling.
9. The bin and cycle storage for unit 2 are proposed to be provided within the forecourt. This would not be characteristic of the frontages in Clinton Avenue and would therefore appear at odds with the street scene. Additionally, the property's frontage would be functionally and visually dominated by parked cars, and limited space would be available to provide meaningful planting. Therefore, the proposal would harm the appearance of the plot and it would fail to create an attractive frontage, thus harming the street scene.
10. I acknowledge that the proposal would reflect the prevailing pattern of closely spaced buildings and, in addition, its ridge height and height to the eaves would respect that of the adjacent properties. However, drawing all the above together, the appeal plot is not sufficiently large to accommodate the form and scale of the proposed development. As such, while Clinton Avenue does not have a particularly spacious character, the proposed layout would nonetheless appear cramped and contrived. It would thereby fail to constitute an efficient use of land that would strike the appropriate balance between optimising development and existing density. As such, the proposal would not integrate with the character of the area.
11. In conclusion, the proposal would harm the character and appearance of the area. It would conflict with Policies CS7 and CS17 of the Elmbridge Core Strategy 2011 (CS) and Policy DM2 of the Elmbridge Local Plan Development Management Plan 2015 (DMP). These policies seek, amongst other matters, to secure high quality design that maximises the efficient use of land and that

responds to the positive features of individual locations. The proposal would also conflict with the Elmbridge Design and Character Supplementary Planning Document 2012 (Design SPD) which seeks to secure the delivery of distinctive, high-quality development across the Borough that respects local character. It would also conflict with the Framework where it supports development that is sympathetic to local character.

Living conditions

12. Despite being stepped in from the boundary, the development would project a number of metres beyond the rear elevation of 29 Clinton Avenue (No 29). The new building would be sited close to the common boundary with No 29 and, given its two-storey height and scale, it would be extremely imposing for the residents of this property. Therefore, the proposal would cause undue harm to the outlook of the residents of No 29, particularly when in their rear garden.
13. No 25 Clinton Avenue (No 25) has a side dormer window facing the appeal site which, based on the evidence, is the sole window serving a habitable room. The distance between the proposed development and the dormer window would be limited. Given the scale and proximity of the proposal, the outlook from the dormer window would be severely compromised by views of the two-storey flank wall of the proposed terrace. The effect of this would be overbearing, thereby harming the living conditions of the occupants of No 25.
14. The submitted Daylight and Sunlight Assessment, the conclusions of which are not challenged by the Council, demonstrates that the proposal would not result in adverse loss of daylight and sunlight to No 25. Nevertheless, this would not alter my view that the proposal would fail to offer an appropriate outlook to both neighbours.
15. I therefore conclude that the proposal would be contrary to Policy DM2 of the DMP, which seeks to protect the amenity of adjoining users. Further, the proposal would be contrary to the Design SPD, insofar as it would fail to protect residential amenity, and the Framework, which seeks to create places with a high standard of amenity for existing users.

Highway safety

16. The Parking Supplementary Planning Document 2020 (Parking SPD) sets out that cycle parking should be provided undercover, lit, secure and clearly signed. The additional details provided by the appellant show a wall mounted bicycle rack to the front of the building outside unit 2. This arrangement would not be undercover, so it would be contrary to the advice contained in the Parking SPD.
17. The appellant has submitted a Parking Stress Survey of Clinton Avenue which concludes that an additional parked car could be accommodated on Clinton Avenue without causing excessive parking stress. This survey is not disputed by the Council and I see no reason to disagree with its findings.
18. A Swept Path Analysis has also been provided demonstrating that, despite the tight layout, the proposal would provide acceptable manoeuvring space in respect of parking spaces 1 and 2. As such, the position of the existing on-street tree and the width of the dropped kerbs would not unreasonably affect the passage of a car.

19. Considering the above, while I am satisfied that one additional car could be accommodated within the highway and the parking spaces for units 1 and 2 would be accessible, the proposal would fail to provide adequate cycle storage for unit 2. Therefore, the proposal would be contrary to Policy CS25 of the CS and Policy DM7 of the DMP. Amongst other things, these policies seek to promote improvements to sustainable travel and secure appropriate cycle parking. The proposal would be contrary to the Parking SPD, insofar as it would fail to provide appropriate cycle parking.

Planning Balance and Conclusion

20. The Council has prepared a new Local Plan and submitted the Regulation 19 draft to the Secretary of State for Examination on 10 August 2023, which meets the requirements of paragraph 226 of the Framework. Consequently, the Council is required to demonstrate a 4-year supply of deliverable sites rather than the minimum of five as set out in paragraph 77 of the Framework.
21. The Council concedes that it is unable to demonstrate a 4-year supply of deliverable housing sites. It does not provide a figure for the current land supply, but for the purposes of my assessment on this appeal I shall assume that there is a significant shortfall. The lack of the requisite housing land supply engages paragraph 11 d) ii. of the Framework. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. The proposed development would provide a net increase of two dwellings that would contribute to the Council's housing stock and would meet the Framework's objectives of boosting the supply of housing. Further, the proposal would make a useful contribution to the housing mix within the Borough. The site is in an accessible location within an urban area, so the proposal would logically reduce the pressure for development in the Green Belt. I have given significant weight to the benefits of housing delivery, given that there is an identified shortfall.
23. However, the adverse impacts of the proposal on the character and appearance of the area and on the living conditions of the adjoining neighbours would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework as a whole. The proposal does not therefore constitute sustainable development in terms of the Framework.
24. 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