



Appeal Decision

Site visit made on 20 February 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 July 2024

Appeal Ref: APP/K3605/W/23/3325521

47 Arbrook Lane, Esher, Surrey KT10 9EG

- 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 Mr M Weeks, Runnymede Homes Ltd against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/0759.
 - The development proposed is the formation of a new access road to the rear of the plot; erection of one detached dwelling and a pair of semidetached dwellings all two storeys high; provision of car parking and private amenity space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023, during the consideration of the appeal. The Council and the appellant were given the opportunity to comment upon the revisions insofar as they relate to the appeal, with particular regard to housing land supply and the effect of the appeal scheme on the pattern and grain of development in the area. A submission from the appellant was received and I have taken it into account in my decision. A further submission was received by the appellant in the form of a recent appeal decision¹ to illustrate the requirement for a 4-year housing land supply in this location. In the interests of fairness, the Council were given the opportunity to comment on this and I have taken their response into consideration.
3. I note there is a draft Elmbridge Local Plan that has been submitted to the Planning Inspectorate for independent examination. As I have not been provided with any evidence relating to the current stage of examination or whether there are outstanding objections to relevant policies, and as the plan has not been formally adopted, I have attached little weight to the emerging policies.
4. The appellant submitted a revised drawing with the appeal showing a reduction in the number of proposed car parking spaces. I have however proceeded to determine the appeal on the basis of the proposed plans upon which the Council made its decision, since it is not the role of the appeal process to evolve a development scheme².

¹ Reference APP/K3605/W/23/3325228

² Procedural guide: Planning appeals – England, updated 11 January 2024

Main Issues

5. The main issues are the effect of the appeal proposal on:
- the character and appearance of the area,
 - the level of car parking provision with particular regard to sustainable transport objectives; and,
 - trees and ecology.

Reasons

Character and appearance

6. 47 Arbrook Lane is a detached 2 storey Arts and Crafts dwelling set in an extensive plot including a large number of trees and mature planting. Immediately to the north of the site is a school, comprising a substantial 3-4 storey building with a series of outbuildings within the grounds to the rear, with dwellings running along Arbrook Lane to the north of the school site. To the south of the appeal site is residential development, largely comprising substantial detached dwellings set in large gardens. In general, the character of the area surrounding the site is one of residential development which maintains a spacious and verdant aspect. Whilst there is some backland development in the area, it is largely located to the west of Arbrook Lane. Architectural styles in the area vary, though there are many examples of Arts and Crafts style dwellings nearby.
7. The appeal proposal is for 3 new houses located to the rear of the host property, with a new access road running to the south side, along the boundary with No. 47a Arbrook Lane. A semi-detached pair of houses would be located to the north side of the plot, with a further detached house to the south side, its side elevation running next to the boundary with 47a. Each house would comprise ground and first floors, with a second floor set within the steeply pitched roof profile.
8. The planning history shows there was a previous refusal of planning permission on the appeal site for a residential scheme of four houses³, which was refused by the Council on the grounds of, amongst other things, harm to the character and appearance of the area due to the height and design of the buildings. Although the ridge height of the appeal proposal would remain at a similar height to the previously refused scheme, the detailed design has been significantly changed and substantial bulk removed at first and second floors due to the steeply sloping roof design. Whilst the existence of the previously refused scheme is relevant, I have necessarily assessed the appeal proposal on its own merits.
9. The combined footprint of the proposed houses would occupy nearly the full width of the site. In conjunction with the large area of hardstanding to accommodate the parking area and access, the overall effect would be to urbanise the site as a whole. The pattern of development proposed would harm the existing open, green character and appearance to the rear of the dwellings by eroding the contribution that the garden makes to the established character

³ Planning application reference 2021/1191

and appearance of the area. It would not reflect the prevailing pattern and grain of built development in the local area.

10. Whilst I acknowledge that the proposal would not be highly visible from public vantage points, views into the site from Arbrook Lane would be possible through the proposed access road. This road would afford views of the house next to the boundary with 47a Arbrook Lane, particularly following the removal of the trees and shrubs necessary to facilitate development. The character of the area is also informed by the pattern of development which is not necessarily visible from the street; the proposal would be visible from rear gardens and from surrounding houses and the adjacent school. Although these views are private, the effects of the height and scale of the proposal when experienced from neighbouring properties would nevertheless be harmful to the character and appearance of the area.
11. I appreciate the rationale for the three-storey height of the buildings is to some degree informed by the height of the adjacent school buildings. The main school building set along Arbrook Lane is a landmark with a distinctive design and presence; it contributes to the character and appearance of the area in its own right but has little relationship with the more domestic scale of the houses along the remainder of Arbrook Lane, to which the appeal scheme would have a more direct relationship.
12. I acknowledge the appellant's point regarding the need for, versus the delivery of, 3-bedroom dwellings, as shown in the extract provided from the Council's Annual Monitoring Report (AMR) 2021/2022. The proposed houses, whilst containing 3 bedrooms, are very large. I am not persuaded that such bulk, height and scale would be necessary to achieve a scheme containing three 3-bedroom houses on a reasonably constrained site.
13. The detailed design and use of materials, with strong Arts and Crafts references in the form and detailing would be appropriate and in line with the approach of DMP Policy DM2 which, amongst other things, seeks high quality design in new development. This matter holds neutral weight in my determination of the appeal.
14. Notwithstanding my view on the architectural detail, for the reasons set out above, the proposal would result in an uncharacteristic pattern of development along this part of Arbrook Lane, the overall height and scale would be prominent in views from neighbouring houses and gardens as well as, to a more limited extent, from Arbrook Lane itself. Consequently, it would be harmful to the character and appearance of the area, running contrary to Policy CS17 of the Core Strategy, and Policies DM2 and DM10 of the DMP. Taken together, these policies require development to be of a high-quality design, based on an understanding of local character, which integrates sensitively within its surroundings and takes account of the appearance, scale, mass, height and prevailing pattern of development.

Parking

15. The Parking Supplementary Planning Document 2020 (SPD) sets out maximum parking standards, which for the appeal scheme would be 2 spaces per 3-bedroom residential unit. Policy DM7 (b) (iv) of the DMP refers to the Elmbridge Parking Standards in Appendix 1, which are in line with the SPD maximum standard.

16. My interpretation of the maximum car parking standards is that the use of the word maximum does not allow for overprovision. The SPD states that any variation from the standards should be accompanied by robust justification supported by a parking survey, which has not been submitted in evidence. As such, there are no circumstances set out in the appeal scheme that would lead me to conclude that an overprovision would be justified.
17. Whilst no substantive evidence has been provided by the Council in relation to the pollution or congestion issues cited, the potential introduction of up to 10 vehicles parking on the appeal site would necessarily contribute to some degree to pollution and congestion. Such incremental change can cumulatively be significant.
18. Notwithstanding the above, I acknowledge the area is not within a controlled parking zone, and as such there are no restrictions in terms of parking on the highway. There is however a conflict between the proposed level of parking and the aims set out in the Framework and development plan to improve sustainable travel and reduce reliance on private cars. I attach significant weight to this conflict and conclude that the provision of parking as proposed would undermine the objectives of Policies CS25 of the Core Strategy and DM7 of the DMP. Taken together, they seek to reduce reliance on the private car and improve sustainable travel, including through the use of maximum car parking standards.

Trees and ecology

19. The appeal scheme would involve the removal of a significant number of trees across the site along with small sections of the front boundary hedge to facilitate the access road. There is a Blue Atlas Cedar tree subject to a Tree Preservation Order (TPO) located within the appeal site which is also very close to the boundary with No. 47A Arbrook Lane; the proposed access road would run over part of the root protection area (RPA). The tree is substantial in size and makes a significant contribution to the visual amenity of the area, as recognised in its inclusion in the TPO. The arboricultural report submitted in evidence identifies an engineering solution to protect the RPA from the installation of and subsequent operation of the access road, and had the appeal been allowed, the appropriate methodology and tree protection measures could have been secured by planning condition.
20. The Council notes that the arboricultural report submitted with the previously refused planning application classified the trees within the site as being of higher quality than the assessment in the report submitted with the appeal scheme, yet in their view the quality of the trees on site has not degraded. I necessarily have to make a judgement based on the submitted professional report and on my own observations.
21. The arboricultural report accompanying the planning application was completed by a chartered arboriculturalist. None of the trees in question have any additional protection afforded by a TPO or other designation and, significantly, the Council's arboricultural officer did not object to their removal.
22. The trees proposed to be removed are mostly located along the side and rear boundaries; some fruit trees to the centre of the site would also need to be removed. I note the Council and many interested parties' views that collectively, the trees and front hedgerow on the appeal site make a positive

contribution to local character and ecology. They certainly contribute to the overall verdant character of the area. However, I do not consider that collectively they make a contribution so significant that their removal would harm the character of the area or its ecology. I have no doubt that a suitable replacement planting scheme could achieve a similar contribution to local ecology and biodiversity. Despite the proposed removal of trees and part of the front boundary hedge, many mature trees would remain on site.

23. The Preliminary Ecological Assessment (PEA) concluded that no trees with significant potential for bat roosts were identified on site. The trees and hedges have the potential to accommodate nesting birds, but there would be no significant residual effects providing the removal takes place outside breeding season. Little substantive evidence has been provided to support the Council's assertions regarding ecological or arboricultural harm. The PEA recommends various enhancement and mitigation measures including bird and bat boxes and specific varieties of flora. Had the appeal been allowed, appropriate mitigation and enhancement could have reasonably been secured by condition.
24. Taken together, the remaining mature planting and trees on the appeal site, along with the proposed landscaping scheme, would preserve the site's ecology and biodiversity. The appeal scheme in respect of its effect on trees and ecology would be consistent with the overall aims of Policies CS14 and CS15 of the Core Strategy and Policies DM6 and DM21 of the DMP. Taken together, these policies aim to protect and enhance green infrastructure and biodiversity; encourage proposals to include an integral scheme of landscape, tree retention, protection and/or planting that amongst other things contributes to biodiversity, encourage adaptation to climate change and do not result in the loss of, or damage to, trees and hedgerows that are, or are capable of, making a significant contribution to the character or amenity of the area.

Other Matters

25. I have had regard to other matters raised by interested parties including, but not limited to, loss of outlook, privacy, light, flood risk, design and highway safety as well as other non-planning matters. As I am dismissing the appeal on two of the main issues for the reasons given above, I have not pursued these matters further.

Planning Balance

26. Set against the harm identified, the proposal would deliver a net gain of three houses, with each of the new houses providing a good standard of accommodation in a sustainable location. Whilst the houses are large for three-bedroom properties, they would nevertheless contribute to meeting the need for three-bedroom dwellings as identified in the Council's AMR.
27. The appeal proposals include a financial contribution towards off-site affordable housing, which would have been secured if I was allowing the appeal. Although a requirement of planning policy, given the clearly identified need for affordable housing in the Borough, it is a considerable benefit of the appeal scheme.
28. There would be temporary and ongoing economic benefits from the development, but given the small number of units proposed, I attribute those benefits limited weight. There would also be biodiversity benefits arising from the contribution of native planting, bat and bird boxes. However, this is an

expectation of development plan policy and is also set against the loss of some existing trees and planting; I therefore attach limited weight to this benefit.

29. As set out above, I have found that the proposed development conflicts with the development plan. The Core Strategy dates from 2011 with the DMP having been adopted in 2015, but the weight to be attached does not hinge on the age of the development plan. The Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
30. The aims of CS17 of the Core Strategy and DM2 and DM10 of the DMP in terms of requiring development to be of a high-quality design, based on an understanding of local character, which integrates sensitively within its surroundings, align with the requirements of the Framework to create high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. The aims of Policy CS25 of the Core Strategy and DM7 of the DMP to improve sustainable travel and reduce reliance on private cars, also align with the Framework. I therefore attribute substantial weight to the conflict with these policies.
31. As there is a draft Elmbridge Local Plan that has been submitted for examination, paragraph 226 of the Framework is relevant. It states that for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old. Following requests for clarification and the submission of a recent relevant appeal decision by the appellant, the Council have now clarified their position is that they can demonstrate a 3.1 year supply of deliverable housing sites.
32. As such, paragraph 11dii of the Framework applies. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are deemed out-of-date. 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.
33. As described above the benefits associated with three additional dwellings would be moderate even taking account of the Framework's objective of boosting significantly the supply of housing, and the Council's housing land supply position. The Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. It seeks the efficient use of land, taking into account, amongst other things, the desirability of maintaining an area's prevailing character and setting (including residential gardens). Additionally, the Framework seeks to improve sustainable travel and to reduce reliance upon private cars.
34. Consequently, the adverse impacts of the proposal on the character and appearance of the area, as well as the conflict with sustainable transport objectives, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

35. The proposal would conflict with the development plan as a whole and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given, the appeal should be dismissed.

L Francis

INSPECTOR