



Appeal Decision

Site visit made on 27 June 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2024

Appeal Ref: APP/K3605/W/23/3333534

16 Broomfield Ride, Oxshott, Leatherhead, Surrey KT22 0LW

- 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 Ashgrove Homes Limited against Elmbridge Borough Council.
 - The application is Ref 2023/1330.
 - The development proposed is demolition of existing dwelling and erection of 2 detached two storey dwellings with rooms in the roof space, front garages and rear pool house projections, with additional vehicle access to be provided to serve plot 2.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of 2 detached two storey dwellings with rooms in the roof space, front garages and rear pool house projections, with additional vehicle access to be provided to serve plot 2 at 16 Broomfield Ride, Oxshott, Leatherhead, Surrey KT22 0LW in accordance with the terms of the application Ref 2023/1330, and subject to the conditions set out in the attached schedule.

Preliminary Matter

2. The appellant has submitted a Planning Obligation, dated 25 September 2023, in the form of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990, as amended. The UU commits the appellant to making a financial contribution towards affordable housing. The Council has confirmed that it finds the UU to be acceptable.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on the living conditions of the occupiers of 14 and 18 Broomfield Ride with particular regard to outlook; and
 - whether the proposal would be an effective and efficient use of urban land, with particular regard to the proposed unit mix.

Reasons

Character and appearance

4. The appeal site comprises a very large detached dwelling within a very large, wide plot. It is located within the Crown Estate, a residential estate characterised by large detached dwellings set within substantial plots in a

mature landscaped setting. The surrounding spacious and verdant plots contribute positively towards the character of the area. Notably, the Design and Character Supplementary Planning Document (2012) (SPD) refers to this as a special low-density residential area, and Policy CS17 of the Elmbridge Core Strategy (2011) (CS) identifies the Crown Estate as an area where usual minimum development density requirements would not apply.

5. Dwellings are generally well set back from the road with car parking to the front. The properties on either side of Broomfield Ride are substantial two and three storey dwellings. The design of properties on the road is not uniform and there is some variation in the height and widths of dwellings, as well as a mixture of architectural approaches and facing materials.
6. The two proposed houses would be set back within their plots, following the existing line of buildings on the road. Their heights would be comparable to existing dwellings along Broomfield Ride, thereby ensuring that they would not appear as visually dominant additions to the street scene. Equally, their scale and architectural form, with crown roof features would help to break up their overall mass. Whilst both have been designed in a traditional style of architecture, the variation in architectural features and use of different palettes of materials for each house would prevent uncharacteristic uniformity.
7. The submitted drawings indicate that the size of plots and space between the proposed houses and the neighbouring dwellings would not appear significantly smaller than surrounding neighbouring plots. Furthermore, the single storey elements closest to both shared boundaries, would ensure that a sense of spaciousness between the development and the neighbouring properties would be preserved. Overall, the spacing and layout of the development ensures that the houses would not appear cramped within their plots, and the density of development across the site would not be excessive.
8. The existing mature hedgerow on the site's front boundary would also be maintained. This would provide significant screening of the proposal from public viewpoints along Broomfield Ride, and when seen in the context of the existing and proposed planting (which would be secured through condition), the two dwellings would not appear as dominant additions within the street scene.
9. The parts of both houses closest to the site's side boundaries would be single storey, albeit with small areas of first floor accommodation within a small portion of the roofs. The single storey elements of the proposal would not be highly visible from the street scene given their scale, positioning, separation distance from the highway and ample vegetation screening on the site's front boundary.
10. I have been referred to an appeal decision at Land North of 6 Kings Warren, Oxshott¹. In that instance, the Inspector found the site's position to be more prominent in the street scene than the appeal site before me. The appeal proposal at 6 Kings Warren would also be at least two-storey and in part three-storey in height across very nearly its full width and depth. In contrast, the appeal proposal before me includes large single storey elements which reduce the overall bulk of the proposal particularly in areas close to the site's side boundaries. In any event, each case must be considered on its own merits, circumstances and situation.

¹ APP/K3605/W/22/3303891

11. For these reasons, the appeal proposal would not harm the character and appearance of the area with particular regard to its plot size, density of the development, spacing around the building and the siting, form and orientation of the proposal. As I have found that the proposed development would cause no harm to the character and appearance of the area it would not create a precedent for other developments that would cause harmful effects in this regard.
12. Accordingly, I find no conflict with Policies CS10 and CS17 of the Core Strategy (2011) (CS), Policy DM2 of the Development Management Plan (2015) (DMP) the Design and Character Supplementary Planning Document (2012) (SPD) and the National Design Guide (2019). Taken together these seek, amongst other things, high quality design which integrates effectively with its surroundings, reflecting local distinctiveness and landscape character.
13. I also find no conflict with paragraph 135 of the National Planning Policy Framework (2023) (Framework) which requires that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

Neighbouring occupiers

14. The site boundary with 14 Broomfield Ride (No. 14) is delineated by tall and dense planting which prevents significant intervisibility between the two properties. Whilst the proposal would introduce a building closer to the site's shared boundary than the existing dwelling, this element would be largely single storey and well screened by the boundary planting. Furthermore, the dwelling at No. 14 is sited a significant distance from the shared boundary. The separation distance, single storey nature of the closest wing of the proposal and retention of the dense boundary planting would prevent the proposal from harmfully impacting on the outlook of occupiers of No. 14.
15. The boundary with 18 Broomfield Ride (No. 18) is also marked by tall and dense planting which prevents significant intervisibility between the two properties. The Council identify that there would be a separation distance of 6.6 metres between the proposal and the neighbouring property, when measured from their closest points. The closest element of the proposal to the shared boundary would be primarily single storey in height, whilst the proposal's two storey elements would have a 16 metre separation from the neighbouring property. Overall, the separation distance, single storey nature of the closest wing of the proposal and retention of the dense boundary planting would cumulatively prevent the proposal from harmfully impacting on the outlook of occupiers of No. 18.
16. I have imposed a landscaping condition which requires details of planting within the site. This could provide additional screening in the long-term. Regardless, it seems to me, in the interests of mutual privacy, it would be unlikely that future occupiers would wish to remove the landscaping on the site's side boundaries.
17. For the reasons outlined above, I conclude that the proposal would not have an unacceptable impact on the living conditions of neighbouring occupiers. Accordingly, I find no conflict with Policy DM2 of the DMP and the SPD. Taken together, these seek development which would not significantly harm the amenities of the occupiers of neighbouring properties.

18. I also find no conflict with paragraph 135 of the Framework which requires that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Effective and efficient use of land with particular regard to the proposed unit mix

19. The proposal would create two very large dwellings, which would both have six bedrooms, plus an additional staff bedroom within each.
20. Policy CS19 of the CS identifies that the Council will seek to secure a range of housing types and sizes, reflecting the most up to date Strategic Housing Market Assessment. The Council's Local Housing Needs Assessment (2020) identifies that the greatest need within Elmbridge is for large affordable and smaller market units (1 to 3 bedroom units). The Council indicate that there has been an oversupply of large, 4 or more bedroom properties, and that community cohesion across the borough could be detrimentally impacted by not having an appropriate mix of smaller units, particularly given the high cost of home ownership and rental in the borough.
21. Whilst there is a need to deliver smaller housing units across the Borough, this does not mean that all sites would be suitable for such delivery or that the land would always be used most effectively in this way. A higher density of smaller homes on the appeal site may not be in keeping with its surroundings which are characterised by very large dwellings laid out at a low density.
22. It seems to me that Policy CS17 identifies that such a balance must be struck. The Policy outlines that development should contribute towards achieving an overall housing density target of 30 dwellings per hectare. However, it specifically identifies the Crown Estate as one of a small number of areas where minimum densities will not be required. Therefore, no minimum density of development is required in this instance.
23. I have previously found that the design and layout of the proposal would harmonise with the character and appearance of the area. The existing dwelling at the site is very large. Its replacement with two new dwellings would represent a more efficient use of land whilst maintaining the area's prevailing character and setting, in line with paragraph 128 d) of the Framework. Furthermore, I have no evidence that the creation of two 6 bedroom properties would be detrimental to community cohesion.
24. For the reasons outlined above, I conclude that the proposal would make an effective and efficient use of land with particular regard to the proposed unit mix. Accordingly, I find no conflict with Policy CS19 of the CS, the aims of which are described above.

Other Matters

25. Concerns have been raised in relation to construction noise, damage to local roads and the safety implications in the area during construction. I have sympathy for existing occupiers as development of this nature would inevitably give rise to some disruption. However, the works would be time limited and it would not be reasonable to withhold consent on this basis alone.
26. Interested parties have raised concerns in relation to the felling of trees prior to the submission of the planning application. However, there is little evidence

before me to suggest that these trees could not have been felled. I have determined the appeal on its own merits and based on the appearance of the site during my visit.

27. In relation to concerns related to landscaping and the loss of further trees, I have imposed a condition which requires details of soft landscaping which will include further planting, and a condition to ensure protection measures for trees shall be undertaken in accordance with the details contained within the Arboricultural Report.
28. Concerns have been raised in relation to the impact on the natural habitat for wildlife, birds, and insects. In order to mitigate harm to local wildlife a planning condition is imposed requiring that the development is carried out in accordance with the conclusions and recommendations in the Ecological Impact Assessment.
29. Interested parties state that the proposal would harm highway safety and increase local traffic. The appeal proposal provides a net increase of one dwelling which would result in a very limited increase in local traffic, and I have not been provided with substantive evidence that there would be a harmful impact on these matters. The addition of the dwellings within a residential area is unlikely to cause harmful noise and disturbance as a result of the additional comings and goings, or recreational use of the properties by future occupiers and visitors.
30. Concerns have been raised in relation to the carbon impacts of the development and how this relates to emerging policies in the Draft Elmbridge Local Plan 2022-2037. I understand that the Examination in Public is ongoing and therefore, there is little certainty that the emerging policies will be adopted in their current form. Accordingly, I can only give such policies very limited weight in the decision-making process. The Council advise that in relation to the Council's Climate Change Commitment; there are no specific planning policies in this regard.
31. I have been referred to the Crown Estate Planning Guidelines. These guidelines do not appear to form part of the development plan for Elmbridge Borough Council. In any event, as I have found that the proposed development would cause no harm to the character and appearance of the area it would not cause harmful effects in this regard.
32. I acknowledge the concerns of interested parties about property values in the area. However, the Planning Practice Guidance (PPG) makes it clear that planning is concerned with land use in the public interest, so that the protection of purely private interests such as property values could not be a material consideration. Therefore, the effect of the proposal on house prices has not been a determinative matter in my consideration of the appeal.
33. The existence of restrictive covenants does not affect the acceptability of the appeal proposal in terms of its planning merits.
34. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such as the impacts on local water supply, sewage, drainage and infrastructure and embodied carbon. However, whilst I take these representations seriously, I have not been

presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters.

35. On the evidence before me, it appears that the need to provide affordable homes sought by the Council arises from the development. Based on the evidence before me, I am satisfied that the proposed contribution is necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with the Framework and the Community Infrastructure Levy (CIL) Regulations 2010. The UU commits the appellant to make a financial contribution towards affordable homes. As such, the proposal makes adequate provision for affordable homes.

Conditions

36. I have had regard to the planning conditions that have been suggested by the Council. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents and for clarity and consistency.
37. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty.
38. Conditions related to external materials, tree protection measures, soft and hard landscaping, and the provision of boundary treatment, vehicle parking layouts, bin and cycle storage are necessary in the interests of the character and appearance of the area. I have, however, modified the condition related to boundary treatment and bin and cycle storage to remove references to landscaping in order to prevent repetition with other conditions. I have also modified that condition and the condition relating to external materials because the details are not required prior to commencement of the development.
39. A condition requiring the implementation of ecological enhancements identified within the appellant's Ecological Impact Assessment is imposed to deliver local ecological enhancements. Conditions related to bat mitigation and enhancement measures and to require details of external lighting are necessary to prevent harm to protected species.
40. A condition related to the construction of vehicular accesses and visibility splays is necessary in the interests of highway safety. I have also included the Council's suggested conditions relating to obscure glazing within windows and restricting the use of flat roofs to protect neighbouring occupiers' living conditions. A condition relating to noise assessments for plant is also necessary to protect neighbouring occupiers' living conditions.
41. I have not imposed the suggested condition requiring the provision of electric vehicle charging points as the PPG sets out that compliance with other regulatory requirements, such as the Building Regulations, will not meet the test of necessity and may not be relevant to planning. I have not included an additional condition related to car parking layouts as these details are already required by another condition.
42. Bearing in mind the PPG's advice that the blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity, I have not been provided with sufficient evidence as to why it would be reasonable or necessary to restrict several

classes of permitted development rights. Therefore, I have not imposed the suggested condition to this effect.

Conclusion

43. For the above reasons, and having had regard to all other matters raised, I conclude that the proposed development would accord with the development plan and the Framework. The appeal is therefore allowed.

B Pattison

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 shall be carried out in accordance with the following approved plans: 22-J4019-100, 22-J4019-100.1, 22- J4019-102, 22-J4019-103, 22-J4019-105, 22-J4019-108, 22-J4019-CP01 received 5 May 2023, TPP1_BR received 14 June 2023, 22-J4019 -101, 22- J4019 -104, 22-J4019 -109, 22-J4019 -LP01 received 16 June 2023.
- 3) No development shall take place until updated drawings and details demonstrating that the bat mitigation, compensation and enhancement strategy is feasible and showing the enhancement measures, such as the integral bat boxes/tubes on the submitted drawings have been submitted to and approved in writing by the Local Planning Authority. The measures shall then be implemented in accordance with the approved details. The Ecological Enhancements should be based on the enhancement measures stated within sections 6 and 7 of the Ecological Impact Assessment by Darwin Ecology Ltd dated September 2022.
- 4) The development shall be carried out in accordance with the conclusions and recommendations in the Ecological Impact Assessment by Darwin Ecology Ltd dated September 2022 including all mitigation, compensation and enhancement measures, specifically set out in sections 6 and 7 of the aforementioned report.
- 5) Throughout the entire construction period (including site clearance), all protection measures for trees shall be undertaken in accordance with the details contained within the Arboricultural Report (CONSULTANT: ACS/SITE: 16 Broomfield Ride Oxshott Leatherhead Surrey KT22 0LW/TPP: 16 Broomfield Ride Oxshott Leatherhead Surrey KT22 0LW/DATE: APRIL 2023).
- 6) The development shall not progress above the damp proof course of the new houses until details and plans of the following works have been submitted to and approved in writing by the Local Planning Authority:
 - a) height, design, materials and type of boundary treatment
 - b) secure and covered cycle storage (minimum 2 spaces per unit) to each of the dwellinghouses
 - c) refuse/recycling bin storage and collection
 - d) vehicle parking layoutsThe boundary treatment, cycle and bin storage and parking layouts shall be installed in accordance with the approved details prior to the occupation of the development and maintained and retained thereafter.
- 7) The development shall not progress above the damp proof course of the new houses until details of the materials to be used on the external faces and roofs of the buildings 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.
- 8) The development shall not be occupied until the first and second floor windows on the side elevations of the new dwellings have been fixed shut

and obscure glazed, other than any parts that are above 1.7 metres measured from the internal floor level. Once installed the fixed shut obscured glazing shall be retained thereafter.

- 9) The flat roof areas to the dwellings shall not at any time be altered or adapted to form a balcony, roof garden or similar amenity area without the grant of a further specific permission from the Local Planning Authority.
- 10) Before any fixed plant, machinery, air-moving extraction or filtration, refrigeration equipment, air-conditioning units or like-kind are used on the premises, a noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and in accordance with BS4142: 2014 + A1 2019.
The assessment shall be submitted to and approved in writing by the Local Planning Authority. Should the assessment identify mitigation measures are required, then they must be submitted to, approved in writing by the Local Planning Authority and installed prior to use of any of the equipment.
- 11) The development shall not be occupied until details of any external lighting has been submitted to and approved by the Local Planning Authority. All external lighting shall be installed in accordance with the submitted details prior to occupation of the development and shall be maintained as such thereafter, and no additional external lighting shall be installed other than in accordance with the approved details.
- 12) The development shall not be occupied until the proposed accesses to Broomfield Ride have been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1000mm high.

END OF SCHEDULE