
Appeal Decision

Site visit made on 2 July 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2024

Appeal Ref: APP/K3605/W/23/3327662

Land Rear of 85 Queens Road, Weybridge, Surrey, KT13 9UQ

- 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 Ms G Hewett against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/1127.
 - The development proposed is change of use of existing commercial building to 2 residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and site address above from the decision notice. Although different to that given on the application form, they more accurately describe the development proposal and location.
3. A revised National Planning Policy Framework (the Framework) was published following the Council issuing its decision. The main parties have had the opportunity to comment on the revised Framework during the course of the appeal.
4. During the course of the appeal, the Council confirmed that it could now demonstrate the required supply of deliverable housing land. The appellant has not disputed this, and I have determined the appeal accordingly.
5. I have also dealt with another appeal (APP/K3605/W/23/3333903). Whilst the two appeal proposals share similarities that appeal is the subject of a separate decision.
6. As part of their appeal submission, the appellant has provided additional information, which includes an updated Daylight and Sunlight Assessment (DSA) and a Financial Viability Appraisal (FVA)¹. These involve details of light conditions for future occupiers and contributions towards affordable housing. Whilst not substantial changes, they have the potential to affect consideration of the main issues.
7. Regarding affordable housing, the appellant's affordable housing statement identifies an affordable housing contribution and that an obligation will be submitted during the course of the application. Consultation was carried out on

¹ Internal Daylight & Sunlight Report prepared by EEABS and Financial Viability Appraisal prepared by DC Development Consultancy dated July 2023.

the basis of this and other documents, and there was a considerable level of public interest with a number of public consultation responses generated.

8. Having regard to the Wheatcroft² and Holborn³ principles, as well as the procedural guidance⁴, I conclude that, with the exception of the DSA, it would not be fair or reasonable to determine the appeal against the FVA. To do so would prejudice interested parties who I cannot be sure have had the opportunity to comment on these additional documents. Moreover, it is established that what is considered at appeal should essentially be the proposal that was considered by the local planning authority. Therefore, I have not taken FVA into consideration but have determined the appeal on the basis of the plans and information originally submitted to the Council.
9. The appellant has drawn my attention to two appeals⁵ whereby the inspector allowed the submission of detailed evidence with regard to viability during the appeal. However, I do not know the full circumstances that led to the FVAs being accepted. In any event, these were for different sites/schemes. As such, they do not lead me to a different conclusion on accepting a late FVA. Additionally, the matter of costs for an independent assessment is not for me to determine as part of this appeal.
10. In regard to the DSA this technical document is an update to the original report submitted with the application that the Council have had the opportunity to comment on during the appeal process. Therefore, I find that accepting it, on the evidence before me, does not lead to any prejudice for any interested party.
11. At the time of my visit, a small area of fencing had been erected at the front of each of the proposed dwellings. As this does not reflect the submitted plans the Council made its decision on, I have considered the appeal as a proposed scheme and on the basis of the submitted drawings.

Main Issues

12. The main issues are:

- whether the proposal would provide satisfactory living conditions for the future occupiers;
- the effect of the proposal on the living conditions of the occupiers of the host dwellings and neighbouring properties, with particular regard to demand for on-street parking;
- whether the proposal should be liable for a contribution towards affordable housing;
- whether or not the proposed development would provide adequate cycle parking; and
- whether or not the proposed development would provide adequate waste and recycling facilities.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

⁴ Planning Inspectorate Procedural Guide: Planning Appeals – England (updated 28 May 2024)

⁵ Appeal Ref: APP/K3605/W/23/3332678 and APP/K3605/W/22/3290400

Reasons

Living conditions – future occupiers

13. Policy DM10 of the Elmbridge Development Management Plan (EDMP), amongst other things, requires new housing development, including conversions to provide appropriate standard of living. DM10 states residential accommodation should offer residents an appropriate level of light, outlook (particularly when the accommodation is lit solely by rooflights) and amenity, including gardens or outdoor space, commensurate with the type and location of housing proposed.
14. There is no dispute between the main parties that the dwellings proposed would receive adequate levels of daylight to all habitable rooms. The Council's concerns in relation to light are due to inadequate levels of sunlight to the main living areas. The Framework states when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).
15. As shown on the submitted plans, the bedrooms of the dwellings would be served only by a pair of rooflights along the roof slope. The appellant states that these windows are similar to others nearby, but I have been provided limited details to draw any meaningful comparison. In any event, I find that the height, angle and positioning of these rooflights, given the proximity of other taller nearby buildings, would create a constrained outlook, negatively impacting the enjoyment and useability of this room and harming the living conditions of future occupiers.
16. Furthermore, the living/dining areas of each dwelling would consist of only one outward-facing window on the front elevation. This window would face the rear high close-boarded timber fence of the new properties on South Road at a short separation distance. At this distance, the fence would have a harmful enclosing effect on the outlook from these front-facing windows. Notwithstanding the harm identified, the outlook from the windows would not be harmfully affected by the presence of the flank wall of No 81b, its boundary fencing or the side boundary wall brick wall to southeast due to the separation distance to be created.
17. The Council accepts that given the size of the proposed dwellings, some deviation from the recommended garden sizes set out in the Council's Design & Character SPD would be acceptable. The outdoor amenity areas for the proposed dwellings would be small but could reasonably accommodate some furniture. However, given the limited detail and the requirement for access to bin and cycle storage areas, the scheme has failed to demonstrate that the proposal would provide adequate functional space.
18. Moreover, the proposed dwelling's gardens would be close to each other, nearby dwellings and walkthrough areas. As such, without appropriate boundary treatments, the proposed gardens would not provide any private amenity space for future occupiers.
19. The dwellings as proposed, could be starter homes and would conform to NDSS space standards. Additionally, while there may be dwellings nearby with smaller or no private outdoor space, the lack of private outdoor space in other

properties would not justify a deficiency in this case. Notwithstanding that, there may be a reduced expectation for outdoor space for one-bedroom properties of this nature, and while appreciating that not everyone may desire a large garden, the provision of a satisfactorily sized useable area of private outdoor space is not an unreasonable requirement, in terms of delivering high quality and well-designed places that promote a high standard of amenity for future users.

20. Many nearby residential properties have some form of internal privacy screen, such as blinds, that allow for adequate natural light to enter the property and provide privacy. Such internal features are commonplace for residential areas. As it would likely be standard practice to offer rooms such privacy options, I find no reason why the proposed scheme would not provide adequate privacy for future occupiers, even when taking into consideration the unit is single aspect. Additionally, while there are likely to be people using the nearby walkthrough a defensible boundary could be incorporated to delineate the garden areas to stop nuisance from individuals walking in front of these windows.
21. While some aspects of the proposed scheme would be acceptable, suitable standards of accommodation would not be provided for future occupiers with regard to outlook, privacy and private outdoor amenity space. The proposal would therefore conflict with EDMP Policy DM10. The proposal would also conflict with the requirements of the Framework, which include providing a high standard of amenity for future users.

Off-street parking

22. Policy DM7 of the EDMP, amongst other things, states that parking provision should be appropriate to the development and not result in an increase in on-street parking stress that would be detrimental to the amenities of local residents. It also states provision of car parking should accord with the Elmbridge Parking Standards at Appendix 1.
23. The evidence from the Council and from interested parties is that the locality is subject to parking stress. As part of this evidence, I have also been directed to two appeal decisions in the area⁶. Whilst just a snapshot in time, I observed that parking on South Road was subject to a permit scheme alongside parking restrictions in the form of yellow lines. There are also parking restrictions in the form of yellow lines and time-restricted parking bays along Queens Road.
24. During my visit, I also observed that almost all of the limited spaces were occupied. These observations would correspond with the concerns from previous Inspectors, the Council and local residents' conclusions that there is a high level of on street parking stress in the immediate area and that spaces are at a premium in and around the site. The proposal does not include any off-street parking provision thus would generate demand for spaces which are relied on by local residents through applications for parking permits. There is also likely to be a demand for parking from the future occupiers guests.
25. The increase in parking pressures in the surrounding area, identified above, would be likely to reduce the current levels of on-street car parking for the occupiers of neighbouring dwellings, particularly on South Road where parking

⁶ APP/K3605/W/22/3291046 and APP/K3605/W/21/3286858

provision is extremely limited. As a result, this would have a detrimental effect on their ability to park near their property, as most neighbouring dwellings do not benefit from off-road parking provision, and as a result would have a detrimental impact on their living conditions.

26. The appellant suggests that the existing commercial unit generates traffic and the change of use to residential dwellings will reduce the overall level of vehicular movement and parking demand in the area. However, no substantive evidence has been presented to demonstrate this would be the case such as a parking survey.
27. I note that the County Highway Authority has raised no objection to the proposal or to zero parking provision, but this is in relation to highway safety concerns and access to alternative forms of transport.
28. My attention has been brought to a prior approval application (Ref 2020/0816) and an allowed appeal for technical details consent as part of a permission in principle application. I have not been provided with the full details of these cases to be able to identify any similarities. In any event, the examples indicated are not full planning applications and are therefore materially different to the appeal scheme. Moreover, I have considered the appeal on its own merits and found harm for the reasons set out above.
29. For the reasons above, the proposed development would harm the living conditions of the occupiers of the proposed dwellings and neighbouring properties with regard to car parking provision. It would therefore conflict with Policy DM7 of the EDMP.

Affordable Housing

30. Policy CS21 of the Elmbridge Core Strategy (ECS) requires that for a development financial contribution equivalent to the cost of 20% of the gross number of dwellings on sites of 1 – 4 dwellings should be provided. Based on the appeal submissions provided by the main parties, there is no evidence to suggest that the site should not be in principle liable for a contribution towards affordable housing.
31. The proposal would result in a net gain of two 1-bedroom detached dwellings. Based on an open market value of £320,000 for each new dwelling, the Council would expect an affordable housing contribution of £55,023.04 for the proposal to comply with Policy CS21. In the absence of a completed planning obligation or any substantive evidence to demonstrate the scheme should not be liable for a contribution towards affordable housing, it would conflict with Policy CS21 of the ECS which indicates that affordable housing will be required where viable.

Cycle Parking

32. The proposed development shows secure cycle parking provision for both proposed dwellings. However, there are no details to show how they would be covered or lit. There is space at the front of the site to accommodate an appropriate cycle store arrangement that could be ensured by a planning condition.
33. Therefore, subject to an appropriately worded condition, the proposed development would provide adequate cycle parking and would not conflict with Policy DM7 of the EDMP, which states that cycle stores should be integrated

into the scheme. It would also comply with the aims of the Elmbridge Parking Supplementary Planning Document with regard to cycle provision.

Waste and Recycling

34. The proposed development would see waste and recycling storage sited to the front of the properties. Given the limited size of the properties, waste and recycling from a one-bedroom property would be limited.
35. The Council are concerned firstly that given the back land location; the bins would not be accessible for waste collection services. As a result, future occupiers would have to take bins down the side alley to the indicated collection point on the edge of the street adjacent to South Road.
36. However, I observed there are a number of properties in the vicinity that have bins that are located a similar distance away from nearby collection points. It is therefore likely that bin collections already take place in and around this area. In the absence of any substantive evidence to the contrary I find that the short travel distance with the waste bins would not be impractical.
37. As such, the proposed development would provide adequate waste and recycling facilities and would comply with Policy DM8 of the EDMP which seeks to ensure that appropriate waste and recycling facilities are provided on all new developments.

Other Matters

38. The site lies within 5km of the Thames Basin Heaths Special Protection Area (SPA). The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. A financial contribution towards strategic access management and monitoring is required, and an obligation has been provided. However, as I am dismissing the appeal for other reasons, it has not been necessary for me to undertake an AA, and I have not considered this matter further.
39. There is a broad agreement between the main parties that, given wider surrounding land designations, there is limited brownfield land for development in the borough. As such, what is available faces pressure to be developed.
40. The proposed development would help to boost local housing stock in an area close to nearby services and facilities. It would also provide benefits through the conversion process and support for local services and facilities when occupied. However, given that the development only involves the creation of two dwellings, these social and economic benefits do not outweigh the identified harms.
41. I note the appeal scheme follows a refused prior approval scheme at the site. However, this does not lead me to reach a different conclusion on the main issues.

Conclusion

42. The proposed development would provide adequate waste/recycling facilities and cycle parking, but a lack of harm in these regards would not, however, overcome the harms set out above. Therefore, for the reasons given above and

having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR