

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/23/3333903

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 2023/2215.
 - The development proposed is change of use of existing commercial building to 2 residential units with bin and cycle stores.
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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/23/3327662). 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 a Financial Viability Appraisal (FVA). This involves details of contributions towards affordable housing. Whilst not a substantial change, it has the potential to affect consideration of a main issue. 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 the basis of this and other documents, and there was a considerable level of public interest with a number of public consultation responses generated.

7. Having regard to the Wheatcroft¹ and Holborn² principles, as well as the procedural guidance³, I conclude that 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 this additional document. 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 the FVA into consideration but have determined the appeal on the basis of the plans and information originally submitted to the Council.
8. The appellant has drawn my attention to two appeals⁴ 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.

Main Issues

9. 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; and
- whether or not the proposed development would provide adequate waste and recycling facilities.

Reasons

Living conditions – future occupiers

10. Policy DM10 of the Elmbridge Development Management Plan (EDMP), amongst other things, requires new housing development, including conversions to provide an 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.
11. The submitted plans show the bedroom of each dwelling would be served only by a pair of rooflights along the roof slope. The appellant states that these roof windows are similar to others nearby, but I have been provided limited details to draw any meaningful comparison including the rooms which these windows serve. In any event, I find that the height, angle and positioning of these rooflights, would create a constrained outlook, negatively impacting the

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

³ Planning Inspectorate Procedural Guide: Planning Appeals – England (updated 28 May 2024)

⁴ Appeal Ref: APP/K3605/W/23/3332678 and APP/K3605/W/22/3290400

enjoyment and useability of this room and harming the living conditions of future occupiers.

12. 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.
13. 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 proposed amenity areas have been reduced to overcome concerns related to a previous iteration. However, even with the limited size proposed, these areas would provide adequate functional space for each property. These spaces could include a seating area and the ability to dry clothes such that, while small, they would not feel overly cramped given low-level boundary treatments.
14. The proposed amenity areas would be next to each other, nearby dwellings and walkthrough areas. Without appropriate boundary treatments, the proposed amenity areas would not provide any private outdoor space for future occupiers. I accept that many urban areas see first floor windows overlooking neighbouring amenity spaces. Nonetheless, the exposed location would see the proposed amenity spaces overlooked not only by windows but individuals using the alleyways. This would reduce the likelihood of future occupiers accessing these areas as a form of private or useable amenity space.
15. The proposed dwellings could be considered starter homes and would conform to NDSS space standards. Moreover, 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.
16. For the reasons above, the proposed scheme would not provide appropriate living conditions for future occupiers with regard to outlook 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

17. EDMP Policy DM7 states, amongst other things, 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.

18. The evidence presented by the Council and 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 area⁵. 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.
19. 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.
20. The appellant states suitable off-site parking would be provided at St. James Court. This lies outside the application site boundary. However, no details on how this would be secured had been provided. Therefore, in the absence of any mechanism, it has not been demonstrated that the proposal would include any dedicated off-street parking. In failing to provide off-street parking, the appeal scheme 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.
21. 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 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. This would also be the same for the future occupiers of the properties and as a result would have a detrimental impact on the living conditions of the occupiers of the host dwellings and neighbouring properties.
22. The appellant has stated that the existing commercial unit generates traffic and the change of use to residential dwellings will reduce the overall level of vehicular movements 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. Additionally, I recognize 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. As such, these matters do not lead me to reach a different conclusion on this main issue.
23. 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 draw a meaningful comparison. In any event, the examples indicated are not full planning applications and are, therefore, materially different to the appeal scheme.
24. The appellant has also drawn my attention to a scheme allowed by the Council at Weybridge Hall. While the scheme was allowed subject to off-site parking spaces being provided, the Weybridge Hall site lies some distance from the appeal site and was therefore likely subject to its own assessment of parking

⁵ APP/K3605/W/22/3291046 and APP/K3605/W/21/3286858

provision. In any case, I have considered the appeal on its own merits and found harm for the reasons set out above. Moreover, I have already found that the appeal scheme would not provide off-street parking.

25. 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

26. 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.
27. 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.

Waste and Recycling

28. The proposed development would see waste and recycling storage alongside existing bin store facilities serving flats at No.83 Queens Road. 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.
29. However, the bin store would not be a new addition to the site and already adequately serves existing properties. It is therefore likely that bin collections already take place in this location. I also 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.
30. 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

31. 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. 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.

32. 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. Nonetheless, the Council have a sufficient supply of land for new dwellings.
33. No objections were received from any of the external consultees in respect of ecology, highways or household waste. Nonetheless, a lack of objection weighs neither for nor against the proposal.
34. 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.

Conclusion

35. The proposed development would provide adequate waste and recycling facilities. However, the proposal would fail to provide a contribution towards affordable housing and would also have a harmful effect on the living conditions of the occupiers of the host dwellings and neighbouring properties. 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