



Appeal Decision

Site visit made on 4 September 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2024

Appeal Ref: APP/K3605/W/24/3337473

16-18 Oatlands Drive, Weybridge, KT13 9JL

- 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 The Ridge (Oatlands) LLP against the decision of Elmbridge Borough Council.
 - The application Ref is 2022/3796.
 - The development proposed is described as the demolition of two existing dwellinghouses followed by the erection of two residential buildings (Use Class C3) over three and four storeys respectively, provision of vehicular access, residents' car parking, cycle storage, refuse storage and amenity areas, hard and soft landscaping, and all associated engineering, infrastructure and works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's existing adopted housing requirement is set out in the Elmbridge Borough Council Core Strategy (2011) (CS), which is more than five years old. The Council are currently at Examination with its emerging Local Plan that once adopted will set out the new strategic housing requirement for the borough.
3. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. Paragraph 226 of the Framework sets out that local planning authorities that have submitted a Local Plan for examination are required to identify and update a supply of specific deliverable sites sufficient to provide a minimum of 4 years' worth of housing (with a buffer, if applicable) against the housing requirement set out in adopted strategic policies.
4. Therefore, at present the Council's land supply position must be judged on a 4-year supply of deliverable sites against local housing need, rather than a minimum of five years. Nevertheless, the Council are unable to demonstrate a 4-year supply at the present time and I will return to this matter later in my decision.
5. Since the submission of this appeal, the Government has also published a consultation on proposed reforms to the Framework and other changes to the planning system. Both parties have had the opportunity to comment on any implications for the appeal and I have taken comments received into account.

6. I have also had appropriate regard to these documents as material considerations in determining this appeal. However, as the revised Framework is at an early stage of preparation, it can carry little weight in my decision. Accordingly, I have determined the appeal on the basis of current policy and guidance.

Main Issues

7. The main issues of the appeal are:
- the effect of the proposed development on the character and appearance of the area; and
 - whether the proposed development would enhance the existing landscape or integrate with the surrounding Cowey Sale and Engine River.

Reasons

Character and Appearance

8. The appeal site comprises two existing residential dwellinghouses, 16 and 18 Oatlands Drive (No.16 and No.18), and their plots including land to the front, side and rear. No 16 is a substantial dormer bungalow with a pitched roof, set back from Oatlands Drive behind a driveway. No 18 Oatlands Drive is the larger of the two properties and is a two-storey dwelling, with a garage. It is also set back from the highway behind a driveway. Both properties follow a consistent building line which is typically found in this part of Oatlands Drive.
9. To the rear of the appeal site, lies the Engine River pond, a branch of the Thames. Beyond the pond is dense woodland and then a green open space known as Cowey Sale, which is designated Metropolitan Green Belt. Both existing properties have substantial gardens, the gradient of the gardens falls away steeply at the rear of the properties towards these areas of open space.
10. The surrounding area, in particular this part of Oatlands Drive comprises mostly two-storey, detached dwellings that typically occupy generously sized and mature landscaped plots. Further along Oatlands Drive is a short row of mostly post-war, flat roofed apartment buildings. Whilst it is not disputed that flatted developments exist within the wider area; they do not form part of the established character of this part of Oatlands Drive.
11. Notwithstanding this, immediately to the side of the appeal site is a recent development of three storey apartment buildings. It comprises two blocks of apartments facing onto Oatlands Drive, with a further two blocks located to the rear of site. This development has added a new element to the character of this part of Oatlands Drive. However, it is somewhat of an anomaly and therefore is not reflective of the character of the immediate area.
12. The proposed development would involve the provision of two detached apartment buildings, one fronting onto Oatlands Drive (Building A) and the other located to the rear (Building B). Overall, the proposed development would provide 33 dwellings, a net increase of 31 and would provide a mix of 1, 2 and 3-bedroom dwellings. Situated between both of the proposed buildings would be a courtyard area containing parking areas and to the rear of Building B would be a landscaped communal garden.

13. Building A would have a frontage facing directly onto Oatlands Drive, and the accommodation would be provided across the ground, first and second floors of the building, providing a total of 15 dwellings. It would fill most of the width of the entire plot and would sit, in part, very slightly forward of the buildings either side of the appeal site.
14. Building B would be the larger of the two buildings, located to the rear of the site. Taking into account the steeply sloping topography of the site, Building B would be four storeys in height, with accommodation provided within the basement, lower ground floor, ground floor, first and second floors. It would provide a total of 18 dwellings.
15. The proposed buildings would be constructed using heritage stock facing brick in a yellow buff tone, and off-white ashlar render. The windows would be timber double glazed, vertical sliding sash windows with dark grey GRP dormer with profiled fascia. Wetcast reconstituted stone banding/detailing is proposed as well as the use of slate roof tiles.
16. Policy DM2 of the Elmbridge Local Plan Development Management Plan, adopted 2015 (DMLP) states that all development proposals must be based on an understanding of local character including any specific local designations and take account of the natural, built and historic environment. It further states that proposals should preserve or enhance the character of the area, with particular regard to appearance, scale, mass, height, levels and topography, prevailing pattern of built development and separation distances to plot boundaries.
17. Policy CS17 of the CS states that new development will be required to deliver high quality and inclusive sustainable design, which maximises the efficient use of urban land whilst responding to the positive features of individual locations, integrating sensitively with the locally distinctive townscape, landscape, and heritage assets, and protecting the amenities of those within the area.
18. The Elmbridge Local Plan Design and Character Supplementary Planning Document adopted April 2012 (SPD) provides design guidance in support of Policy CS17 and includes ten companion guides and settlement character assessments. It states that the purpose of SPD is to secure the delivery of distinctive, high-quality development across the Borough, which respects local character. The appeal site is located within the WAL11:Oaklands Park sub character area, which notes that the area is characterised by a mix of predominantly two-storey houses at a low to medium density on medium to large plots with some post-war three storey flatted development interspersed throughout.
19. The design of Buildings A is such that it utilises a mansard roof to provide the majority of the accommodation within the second floor and would step down to a two-storey height on each side of the building. This is a broadly similar approach to that taken by the development next door. However, the central elements of the design would be greater in height than all neighbouring buildings, including the recently constructed development.
20. Although the use of a mansard roof would reduce some of the bulk of the third storey, the design with its central, three-storey element would make the building appear taller and more prominent, which would exacerbate the

dominant appearance of the building within the street scene. The proposed building would also be taller and wider than the neighbouring development, and substantially larger in both height and scale than the two-storey dwellings typically found within the area. As a result, Building A would, by virtue of its scale, bulk and massing, appear unduly prominent in the street scene, to the detriment of the character and appearance of the area.

21. In respect of Building B, I accept that the visual impact of the building would be more limited from Oatlands Drive, as it would be largely obscured by Building A and set much lower within the site, accounting for the sharp change in topography. However, the overall scale of the building would be significant, and it would extend almost all of the width of the appeal site. This would undoubtedly increase its prominence when viewed from Engine River Pond and the open spaces to the rear of the appeal site.
22. During my site visit I was able to observe the appeal site from some of these viewpoints. However, sections of the Engine River footpath were inaccessible, with others overgrown, thereby limiting views of the appeal site. Nevertheless, it is clear from the evidence before me and my own observations that the proposed development would, in a similar way to the adjoining development, be prominent in certain viewpoints from Engine River path and to a lesser degree from the open spaces of Cowley Sale to the rear. As such, by virtue of the scale of development proposed, where views are possible, it would result in an urbanising effect that would detract from the character and appearance of the area. Whilst these effects would be more limited where there is existing tree planting and wooded areas providing some screening, the scale of development is such that it would nevertheless be a prominent and urbanising addition to the area.
23. In terms of architectural style, I observed that there is not a predominant architectural style visible within Oatlands Drive. However, there are some characteristics which contribute positively to the architectural character of the immediate area. These include roofs which are typically pitched rather than flat and there is also a degree of consistency in terms of materials, with the use of brick and other traditional materials, making a positive contribution to the appearance of the area.
24. Although the proposed building would be constructed of materials typically found in the surrounding area, the use of a yellow buff tone heritage brick, as proposed, would appear at odds with the red coloured brick mostly found on the surrounding buildings, including the newly constructed buildings adjacent to the site. As a result of the scale and prominence of the proposed development, this would be harmful to the character and appearance of the area.
25. My attention has been drawn to the existence of flatted developments¹ within the area, most of which I was able to observe during my site visit. I therefore accept that there is no one dominant building typology along the entirety of Oatlands Drive. However, in the context of the appeal site and its immediate surroundings, the character of this part of the street is mostly consistent in that it comprises predominantly large, detached, two-storey dwellings set in spacious plots. Although not included within the Appellant's typology

¹ Examples include: 42, 44, 46 and 48 Oatlands Drive, Beckworth Place, Broadwater Place, Berkeley Court, Austin Place and Lakeside.

assessment, these characteristics are also evident on the opposite side of Oatlands Drive.

26. I observed during my site visit that there is a pleasing rhythm and consistency to the development pattern. This has been disrupted through the introduction of the recent development at 8-14 Oatlands Drive (Nos. 8-14). For the reasons set out above, the proposed development would, as a result of its scale, bulk and massing, further disrupt this rhythm to the detriment of the character and appearance of the area.
27. I have had regard to the recent appeal decision concerning 4-6 Oatlands Drive (Nos. 4 and 6). Whilst this site differs from the appeal site in that it is prominently located on the corner of Oatlands Drive and Bridge Street, the proposed development is similar in that it involved the proposed redevelopment of two detached dwellings, to provide two apartment blocks of a broadly similar scale to those which are proposed by the appeal scheme. Whilst the Council drew a distinction between this scheme and the appeal scheme in their Officer Report, this does not lead me to reach an alternative view on the proposal before me, which for the reasons set out above would cause unacceptable harm to the character and appearance of the area.
28. I accept that the immediate context of the appeal site has experienced change as a result of the recent development of Nos. 8-14. However, as outlined above, this development does not integrate well with its surroundings. As such, the introduction of further development of this scale, bulk and mass, would not sit cohesively in the immediate area and would not therefore make a positive contribution to the character and appearance of the area. It would represent a harmful addition that would relate poorly to surrounding development and the wider character and appearance of the area.
29. Whilst the proposed development would be of a similar scale to the adjoining development, it would not be in keeping with the established character of the area. In any event, the fact that a similar development has been granted permission next door is not a reason, on its own, to allow unacceptable development. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.
30. For these reasons, I conclude that the proposal by virtue of its appearance, scale, bulk and massing would be detrimental to the character and appearance of the area, thus failing to preserve or enhance it. It would therefore result in significant harm the character and appearance of the area, contrary to Policy CS17 of the CS and Policy DM2 of DMLP, which require, amongst other things, high quality design that would integrate sensitively with the locally distinctive townscape.
31. I also find conflict with the principles within the Framework and the Design and Character SPD which require development to be visually attractive as a result of a good layout whilst maintaining a strong sense of place.

Landscape

32. The Council's second reason for refusal states that the proposed development fails to enhance the existing landscape or integrate with the surrounding Cowley Sale and Engine River, contrary to Policy DM6 of the DMLP. However, whilst the Council's reason for refusal refers to the failure of the proposed

development to enhance the existing landscape or integrate with the surrounding Cowley Sale and Engine River, the wording of Policy DM6 of the DMLP actually states that development proposals should be designed to include an integral scheme of landscape, tree retention, protection and/or planting that reflects, conserves or enhances the existing landscape and integrates the development into its surroundings, adding scale, visual interest and amenity.

33. Some of the trees contained within the site are subject to a Tree Preservation Order² (TPO). Whilst the proposed development would involve the loss of some trees and hedges from within the appeal site, the proposal also proposes new landscaping to the site to integrate the proposed development to the wider landscape setting of Engine River Pond, and beyond. This includes the provision of additional native species tree and hedgerow planting.
34. The appeal is supported by a Tree Survey and Impact Assessment, prepared by Keen Consultants and dated December 2022 (the TS). The TS states that most of the trees proposed for removal are of diminutive form, being mostly ornamental trees planted as part of the garden layout. However, the trees detailed as T22 (Alder, T26 (Ash), T27 (Lawson Cypress) and T20 and T21 (Ash), are shown to be removed to facilitate the proposed development. These trees are noted as being Category C³ (Low Value) or Category U (not worthy of retention) trees within the TS and I agree that these trees are not significant within the context of the local or wider landscape. I therefore find that the loss of trees can be satisfactorily offset by the planting of new and replacement trees as shown on the Landscape Masterplan, and which could be secured by imposition of suitable worded planning conditions.
35. The proposal is also supported by a Tree Protection Plan to ensure the risk of harm to retained trees will be minimised. The Council's Tree Officer reviewed the proposals and concluded that they had no objection to the proposed development. Based on the evidence before me, I see no reason to disagree.
36. On this basis, I find that the proposed development including the proposed landscape enhancements would reflect the existing landscape and would integrate with the surrounding Cowley Sale and Engine River. It would thus comply with Policy DM6 which requires amongst other things, that development proposals that development proposals should be designed to include an integral scheme of landscape, tree retention, protection and/or planting that reflects, conserves or enhances the existing landscape and integrates the development into its surroundings, adding scale, visual interest and amenity and do not result in loss of, or damage to trees that are capable of making a significant contribution to the character or amenity of the area.

Other Matters

37. A number of Grade II Listed Buildings are located on the opposite side of the road to the appeal site, these include 1⁴, 3⁵ and 11⁶ Oatlands Drive. I therefore have a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of

² Tree Preservation Order EL:12/25

³ BS 5837:2012 Categorisation

⁴ List Entry Number: 1030139

⁵ List Entry Number: 1030056

⁶ List Entry Number: 1030138

preserving the building or its setting. However, the Council concluded that the proposals would not cause harm to their setting and based on the evidence before me, I see no reason to disagree with this conclusion.

38. The principle of development is not disputed, nor is the acceptability of increasing the density within the appeal site. However, Policy DM2 is clear that development proposals should preserve or enhance the character of the area, with particular regard to appearance, scale, mass, height, levels and topography, prevailing pattern of built development and separation distances to plot boundaries. For the reasons set out above, I have found conflict with this policy, therefore the acceptability of the development in principle, does not alter my findings.
39. I have also had regard to third party concerns including, but not limited to, the effect of the proposed development on living conditions of neighbouring occupiers including, privacy, outlook, and light; highway safety and parking provision; infrastructure and affordable housing provision. However, these matters were before the Council when it determined the planning application and did not feature in the reasons for refusal. Based on the evidence before me, and from my own observations, I have no reason to disagree with the Council's assessment of these matters.

Planning Balance and Conclusion

40. There is no dispute between the parties that the Council cannot currently demonstrate a four-year supply of deliverable housing sites. The evidence before me indicates a figure of between 3.1 years and 3.5 years. In these circumstances Paragraph 11(d) of the Framework states that the policies most important for determining the application are out of date, and 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 as a whole.
41. In terms of adverse effects, the proposal would harm the character and appearance of the area by reason of its height, scale and incongruous roof form. The development would be contrary to Policy CS17 of the CS and Policy DM2 of the DMP in this regard, policies that are consistent with the Framework in so far as it promotes high standard of design that respect local character. I thus attach substantial weight to this conflict and associated harm.
42. The scheme would be acceptable in terms of affordable housing, highway safety and parking, the effect on living conditions of neighbours and the standard of accommodation proposed, however, the absence of harm in these respects is a neutral consideration that weighs neither for nor against the proposed development.
43. Set against this, the development would provide 31 additional dwellings of a mix of sizes, including smaller units within a sustainable and accessible location in a context where there is a housing supply shortfall. In addition, the proposal would generate some economic benefits during the construction phase and through local expenditure by future residents. There would also be benefits arising from biodiversity net gain. Therefore, I attribute great weight to the benefits of the proposal.

44. However, given the identified significant harm to the character and appearance of the area, the proposed development fails to satisfy the environmental objective of sustainable development and runs counter to the Framework taken as a whole, notably those part which seek to promote high-quality design.
45. Taking all matters into consideration, and notwithstanding the great weight I have attributed to the scheme's benefits, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when considered against the Framework as a whole. Therefore, the Framework's presumption in favour of sustainable development does not apply, and there are no material considerations that indicate that the proposal should be determined other than in accordance with the development plan.
46. For the reasons given, the appeal should be dismissed.

K Lancaster

INSPECTOR