



Appeal Decision

Site visit made on 1 November 2024

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2024

Appeal Ref: APP/K3605/W/24/3346369

24 Sandy Lane, Walton on Thames, Surrey, KT12 2EQ

- 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 Mr Charles Wenman against the decision of Elmbridge Borough Council.
 - The application Ref 2023/3021.
 - The development proposed is a two-storey side extension to existing building to create two additional flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. As part of the appeal, the appellant has submitted a Unilateral Undertaking (UU) in relation to affordable housing to address reason for refusal 1 of the Council's decision notice. Whilst the Council have concerns regarding the UU, the parties agree on the provisions of the obligation and the contribution amount; therefore, I have dealt with this under 'other issues' rather than as a main issue, which are the matters in dispute.

Main Issues

3. The main issues are the effect of the development on (i) the character and appearance of the host property and surrounding area, (ii) the living conditions of the occupiers of No.20 Sandy Lane, and (iii) flood risk.

Reasons

Character and Appearance

4. The appeal property is a one and half storey building with dormer windows to the rear. It is set in a backland position to the rear of 26 Sandy Lane with access between Nos. 20 and 26. Currently, the area to the rear of the building is used for parking, and the ground floor flats have a small defined area of amenity space adjacent to the property.
5. The properties in the area vary with two and three-storey flats, terraced and detached houses and bungalows. There is no consistency in terms of the spacing between or the siting, and there are a few other examples of backland developments. There is, nonetheless, some general cohesion in the building forms and materials.

6. The proposed development would extend the building across the full width of the plot. The scale and massing of the side extension and the resultant building would not be overly prominent or visually intrusive in the street scene. However, while there would be some space around the building, due to its alignment with the neighbouring properties, it would be constrained in relation to its plot. The proposed layout appears cramped and would create a substantial length of built form adjacent to the boundary with No.20. The separation to the side boundary of 0.3m would not be discernible, and the stepped form is not significant that it would reduce the bulk and visual presence of the building. The design would nonetheless reflect the existing building and would create a symmetrical form, plus the provision of render and other materials would add interest and enhance its appearance.
7. To the front, the existing arrangement of the two parallel access drives would be rationalised. However, it would create a wide extent of hardstanding with parking to each side. This would include along the full length of the side boundary to No.26, which has windows in its flank elevation and a rear access gate along that boundary. The parking arrangements, together with the associated electric charging points and the waste storage area also to be accommodated along the access, would appear visually cluttered.
8. There would be very limited space for any meaningful landscaping with the only gap immediately at the entrance where planting may interfere with visibility splays and is unlikely to mitigate the congested appearance from Sandy Lane. Additionally, while the swept path information shows that turning is feasible, the turning area is tight and directly outside the entrance to the proposed flats, adding to the constrictions of the layout and any sense of space throughout the development.
9. The communal amenity space to the rear would be proportionate to the building although access is via the individual ground floor flats or along the limited gap to the eastern side (although the plans appear to show a fence across as a barrier). Due to the proximity, the access path would create a poor relationship and potential privacy issues with the ground floor flat which has a bedroom and kitchen window in that side elevation. The appellant suggests planting or screening could be provided, but space is limited, and if the measures are to be at a height which prevents people walking past from looking into the flat, they are equally likely to affect outlook and light. Based on the lack of details this is not a matter which I consider could be satisfactorily left to a condition.
10. As a backland site the building is already at odds with the prevailing pattern of development, and the relationship with neighbouring properties is different. While individually, the various issues referred to may be small, there is insufficient capacity within the layout to easily accommodate adjustments, and collectively, in my view, they are representative of overdevelopment. These design aspects in relation to the access, incorporation of landscaping and the relationship with the neighbouring properties are specifically referenced in Policy DM10 (d) of the Council's Development Management Plan (DMP) with regard to the development of garden land and were also raised in the pre-application advice provided.
11. Overall, the proposal would result in the development having a cramped appearance and a poor relationship with its surroundings which would also

have limitations to the functionality of the residential use. As such, it would not be a high-quality design and would fail to positively integrate with the character of the area, including its relationship with the immediate neighbours.

12. Consequently, I find that the proposal would be harmful to the character and appearance of the area. It would not accord with Policies CS3 and CS17 of the Core Strategy (CS), Policies DM2 and DM10 of the DMP and the Design and Character Supplementary Planning Document 2012 (SPD). Together, these seek high-quality design, for developments to enhance local character, to integrate sensitively, have regard to attributes including scale, appearance and separation distances, and prevent harm to the amenities of adjoining residents and potential users.
13. There would also be conflict with the similar design objectives of the National Planning Policy Framework (the Framework) and the National Design Guidance.

No.20 – Living Conditions

14. Due to the different alignments, there would be an approximately 5m separation between the rear elevation of No.20 and the front elevation of the appeal proposal. The proposed development would create a substantial length of built form along the shared boundary which is not diminished by the step in the elevation. The side elevation would have a gabled form extending up to approximately 7.5m, which would project significantly above the boundary fencing.
15. The appellant indicates that the rear part of the neighbouring plot is used for storage rather than as a residential garden and has provided historic imagery and business rate details. However, while I observed an area of fencing close to the rear of the bungalow, the rest of the plot appeared to be overgrown. I have not been referred to any planning consent which confirms this status, and this is not an issue for determination as part of this appeal. As such, this is not a matter to which I have given weight, and without an established alternative use I tend to agree with the Council it could be used as a part of the garden at any time.
16. Based on a 45-degree line taken from the rear window of No.20 it would be breached by the development at a distance of approximately 10m. The appellant argues that the 45-degree test is passed as the proposal is single storey and the SPD advises that the relevant distance is 8m. However, the flank elevation does not have a single-storey height nor has a roof pitch projecting away from the boundary. I therefore agree with the Council that the two-storey distance is more applicable.
17. The building would be seen at an oblique angle and is not immediately adjacent to the rear of the neighbouring property; however, due to its scale and length, it would restrict the outlook, and located to the south it would cast a shadow towards No.20. While the appellant's daylight study images indicate that overshadowing would only extend to the rear façade of the bungalow in the winter, no assessment of actual light to the property has been provided. The appellant also indicates that other properties have a similar separation distance, but site-specific factors, including the scale of the development and orientation, need to be considered as part of the assessment.

18. As a result of the development and the increased proximity, there would be a sense of enclosure and loss of amenity through overshadowing and potential restrictions to light. As such, the development would fail to protect the living conditions of the occupiers of No.20 and would conflict with policy DM10 of the DMP and the SPD, which together seek to ensure development is neighbourly and that residential accommodation offers an appropriate level of light and outlook.

Flood Risk

19. The appeal site is located entirely within Flood Zone 2 and partially within an area at medium risk of surface water flooding. As such, the Framework and CS policy CS26 require the Sequential Test (ST) to be undertaken. The Framework explains that development in areas at risk of flooding should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk. The supporting Planning Policy Guidance (PPG) advises that '*reasonably available sites*' are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.
20. The appellant's Flood Risk Assessment (FRA) did not include any details to demonstrate that sequentially preferable sites have been considered. Subsequently, some information has been provided as part of the appeal based on a search area of Walton on Thames. The Council's Flood Risk - Supplementary Planning Document does allow for a reduced search area, although no justification for the limited geographical area has been provided. Additionally, there is nothing specific about the development which suggests a particular need in Walton on Thames, rather than the wider area of the Borough, and only sites from a single source have been reviewed.
21. I acknowledge that the proposal is for an extension to an existing building. However, the purpose of the ST is to direct development to the areas of least flood risk, and as the development is for two new residential units, rather than an extension to an existing dwelling, it does not fall within the ST exceptions.
22. Therefore, whilst being mindful of the need for the requirements of the assessment to be proportionate, the approach taken is not comprehensive, and from the evidence before me, it has not been adequately demonstrated that there are no sequentially preferable sites that could accommodate the proposed development. While the FRA includes a range of flood resilience measures to be included as part of the development, they do not eliminate the need for the Sequential Test. Additionally, the FRA does not consider the effects of climate change or include details of flood depths or water flows. As a result, it cannot be concluded that the measures proposed are sufficient, and the lack of information is contrary to the guidance set out in the Flood Risk SPD.
23. In conclusion, the proposal has failed to demonstrate the development is sequentially located in terms of flood risk and that the development would be safe for its lifetime. Consequently, the proposal would contravene Policy CS26 of the Core Strategy 2011, Flood Risk SPD 2016 and the Framework.

Other Matters

24. A Unilateral Undertaking has been provided by the appellant to secure a contribution towards affordable housing. However, as I have found against the appeal on the main issues, this is not determinative, and I have not considered it further.

Planning Balance and Conclusion

25. The officer's report indicates that the Council currently have a shortfall in housing land supply and housing delivery. Therefore, in accordance with paragraph 11(d) of the Framework, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 to paragraph 11(d) is clear that this applies to areas at risk of flooding. As a result, the presumption in favour of sustainable development would not apply.
26. I have found against the development on all of the main issues, and there are no material considerations which indicate that the proposal should be considered other than in accordance with the development plan.
27. Therefore, for the reasons set out and having regard to all other matters raised the appeal is dismissed.

G Ellis

INSPECTOR