



Appeal Decision

Site visit made on 13 November 2024

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/K3605/W/24/3343354

34 Queens Road, Weybridge, KT13 0AU

- 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 Rushmon Homes against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/2868.
 - The development proposed is a terrace of 3 two-storey houses with rooms in the roof space and 1 chalet bungalow with associated landscaping, new access, bin and cycle storage following demolition of existing house and garage.
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Decision

1. The appeal is allowed and planning permission is granted for a terrace of 3 two-storey houses with rooms in the roof space and 1 chalet bungalow with associated landscaping, new access, bin and cycle storage following demolition of existing house and garage at 34 Queens Road, Weybridge, KT13 0AU in accordance with the terms of the application, Ref 2023/2868, subject to the conditions in the attached schedule on pages 7 and 8.

Preliminary Matters

2. As part of the appeal the appellant has submitted a possible alternative design for the proposed chalet bungalow (Unit 4). It is not for the decision-maker to 'pick and choose' which version of a scheme to consider. In any event, the suggested revision would be fundamentally different as it would introduce a new front door, remove the western dormer and change the size of the eastern dormer. It would be substantially different and so the appeal will proceed on the basis of the original plans considered by the Council.
3. The appellant has provided further viability evidence. This is not an attempt to evolve a scheme as the proposal itself is unchanged. Rather it gives an update in relation to a main matter in dispute. Furthermore, as it was submitted at the start of the appeal process, the Council has had an opportunity to respond to it in their statement and third parties could also have made representations. No unfairness has occurred in this respect.
4. It was a matter for the Council as to whether to instruct their viability consultant to review the later information. There has been time to do this and the decision will not be delayed for the Council to do so now. Parties at appeals should normally bear their own costs. It is up to the Council as to whether it wishes to submit an application for costs as indicated in the *Development Contributions* Supplementary Planning Document. In the light of all this, the further viability evidence will be taken into account as the interests of other parties would not be prejudiced.

Main Issues

5. These are:

- The effect of the proposal on the character and appearance of the surrounding area; and
- Whether there should be an affordable housing contribution.

Reasons

6. A scheme for the construction of 10 apartments on the appeal site was dismissed at appeal in 2023 (Ref: K3605/W/22/3313344). A proposal for 3 terraced houses and a single-story dwelling was refused by the Council last year. The proposed development has sought to address the previous reasons for refusal. However, it should be assessed in its own right and not on the basis of how the scheme compares to earlier, unacceptable developments.

Character and appearance

7. To the west of the railway bridge, Queens Road assumes a distinctly urban, commercial character. By contrast, to the east of it, the road largely comprises residential properties that are set back and enclosed by vegetation.
8. The appeal site contains a detached two-storey dwelling on a large plot at the junction with St Georges Avenue. It is within the generally sylvan and spacious part of Queens Road. However, whilst there are large sycamores on the corner and small trees and shrubs along the return boundary, the site is quite open along the main frontage. It therefore makes a limited contribution to the overall qualities of this part of Weybridge and forms part of a small transitional area between the different typologies on either side of the bridge.
9. Policy CS17 of the Core Strategy is concerned with local character and requires new development to respond to the positive features of individual locations and to be integrated sensitively. Policy CS1 refers to high quality, well designed and locally distinctive developments and these aims are reinforced and expanded upon in the Supplementary Planning Document on *Design and Character*.
10. The proposed terrace would be 2.5 stories in height. Its general scale would therefore be compatible with surrounding development which includes 3 storey buildings. For example, Brackenhurst to the rear is taller.
11. However, the building would be further forward than the existing house and closer to the main road than the norm, including Clevehurst on the opposite corner. A reasonable margin would nonetheless be kept between the building and Queens Road. A few similar set backs are found nearby and there would be adequate space around the proposal to provide a suitable setting. As such, the proposed siting would not be inconsistent with the broad pattern of development nearby.
12. The proposed built footprint would occupy 26% of the site area and would not be excessive. Indeed, the National Planning Policy Framework promotes an effective use of land in meeting the need for homes whilst safeguarding the environment. To that end, the proposal would comply with the density target for Elmbridge set out in Policy CS17. Given the local context, the more

intensive use of the site proposed would not result in a dominant or cramped form of development.

13. The front elevation of the main building includes a double gable feature which would break up the lines of the crown roof. Unit 3 would be stepped back slightly with a front dormer to provide interest. The use of gables would be perpetuated on the return elevation to St Georges Avenue ensuring that the proposed building would 'turn the corner' in a visually satisfactory way. Although usually smaller, crown roofs are fairly common in the area and the use of gables would partially disguise its form so that it would not appear unduly bulky or prominent. Complementary materials would be used and the architecture would relate well to the locality.
14. The existing forecourt is hard surfaced and so the implications of the proposed front parking area would be minimal. It is possible that the refuse collection area would be used to store the bins for Units 2 and 3. However, the impact of this could be ameliorated by screening and landscaping. The parking spaces accessed from St Georges Avenue would 'open up' that side of the site which is currently enclosed by a wall. Existing greenery would also be lost but there would be scope for some replacement planting. These aspects of the scheme are not sufficient to render it unacceptable.
15. Unit 4 would be 'end-on' to the road to reflect the disposition of the adjoining listed lodge at 32 Queens Road (Haines Bridge Cottage). As such, the absence of a front door would not be a notable drawback and the fenestration in the front façade would address the road. The dormers on either side would be set well back and so would not intrude into the street scene. There would be a reasonable transition in scale between the diminutive listed building, Unit 4 as proposed and the new larger terrace. As such, there are no objections to the chalet bungalow.
16. Overall, the design of the proposed development would fit comfortably into the surrounding area and there would therefore be no harm to its character and appearance. The expectations of Policy DM2 of the Development Management Plan regarding design would be met as the relevant attributes have been taken into account. The proposal would also accord with Policies CS1 and CS17.

Affordable housing

17. On sites of between one and four dwellings and where viable, Core Strategy Policy CS21 requires a financial contribution towards affordable housing, equivalent to the cost of 20% of the gross number of dwellings. This equates to a figure of just over £224,000. The appellant submitted a Financial Viability Appraisal with the application which was reviewed by the Council's external consultants. They found that the scheme's viability appears to be marginal and sensitive to variations in assumptions. Nevertheless, that the scheme would be likely to produce a surplus of a little in excess of £65,000.
18. The evidence submitted by the appellant at appeal has updated both sales values following market research and the cost element on the basis of a site-specific plan. Indeed, the main differences between the parties now largely relate to gross development value and the build costs. The appellant's latest appraisal shows a deficit of over £587,000.

19. The sale price of Unit 4 is agreed but reference to terraced properties within 3 miles of the appeal site indicate that the Council's assumption regarding their worth is over-optimistic. The appellant has nevertheless applied a higher price per sq m than the terraced houses for sale in the Weybridge area and the new build terraces slightly further afield. As a result, the appellant's figure for gross development value is £479,000 lower than the Council's. Given that this is based on recent values relating to actual marketing or sales, it is a more realistic input into the calculation.
20. In terms of costs, the Council has quite reasonably used the median average BICS statistic, inclusive of external works with an addition for energy efficiency. However, the appellant's figure is taken from an elemental site-specific cost plan based on the scheme drawings. This budget estimate is detailed and, given that it relates to the actual proposal, provides a more accurate portrayal of expense compared to the application of standard values. As a result, the total costs would be more than £257,000 higher than the Council's figure.
21. Overall, the appellant's position in relation to viability is to be preferred. On this basis, as remarked by the previous Inspector, it seems unlikely that the development would proceed at all in the light of a deficit of over £0.5 million. However, for the purposes of this issue, the scheme should be treated as non-viable. Indeed, even taking the higher gross development value figure suggested by the Council, there would remain a loss of in excess of £201,000. As a result, and in accordance with the exception provision in Policy CS21, there is no requirement for an affordable housing contribution.

Other Considerations

22. The appeal site is within the buffer zone of the Thames Basin Heaths Special Protection Area (SPA). This has been identified as an internationally important habitat for three rare species of ground nesting birds. The proposed dwellings would be likely to increase pressures on it as future residents would be liable to travel to the SPA for informal recreation such as dog walking. In combination with other development, the proposal would therefore lead to a likely significant effect on the designated features of the habitats site.
23. Core Strategy Policy CS13 confirms that the Council will collect developer contributions towards mitigation measures to protect the SPA. These go towards Strategic Access Management and Monitoring. A planning obligation dated 23 July 2024 has been completed and would secure the requisite payment. Harmful effects would therefore be prevented by a long-established means of mitigation. Consequently, following an appropriate assessment, the proposal would not adversely affect the integrity of the habitats site. It would accord with Policy CS13 and would also comply with the Conservation of Habitats and Species Regulations.
24. Haines Bridge Cottage is Grade II listed. It was once a lodge to Firgrove which no longer exists. There is a duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act to pay special regard to the desirability of preserving its setting. The Council raises no objections in this regard. The former association between the gatehouse and Firgrove has been lost and the surrounding area has been developed. In this context, its immediate environs make only a small contribution to the significance of this heritage asset which mainly derives from its design and original architectural features. By placing a

modestly sized dwelling next to it, the setting of the listed building would be respected and preserved.

25. The first-floor bathroom window at Unit 4 could be obscure glazed and the position of the rear bedroom window in relation to No 32 would be typical of that between upper windows and neighbouring gardens in residential areas. As such, levels of privacy would not be significantly diminished.
26. The 7 parking spaces included would align with the Council's standards given the proximity to the town centre. A swept path diagram demonstrates that it should be possible for vehicles to manoeuvre in and out of them. A new access would be provided onto St Georges Avenue close to the busy junction with Queens Road. Adequate visibility splays would be provided and there is no evidence that this would have an unacceptable impact on highway safety.
27. The Council is only able to demonstrate a 3.6-year supply of deliverable housing sites which is below Government expectations. The proposal would assist in addressing that shortfall on a site identified in the Council's Land Availability Assessment. Indeed, the Framework refers to the important contribution that small sites can make in meeting housing requirements and the dwellings would also be in an accessible location within the urban area.

Conditions

28. The approved plans should be specified in the interests of certainty. To ensure a satisfactory appearance, the development should be undertaken in accordance with the external materials schedule. For the same reason, the existing trees to be retained should be protected in accordance with the recommendations in the Arboricultural Report. Details of new planting are also necessary. Given the supervision that is specified within the recommendations, the requirement for a final report is unnecessary and the conditions put forward have been adjusted to avoid duplication.
29. In the interests of highway safety, pedestrian inter-visibility splays should be provided on either side of the new accesses. However, the visibility zones would be within the highway and so do not need to be conditioned. Furthermore, there is no need to require the closure of the existing access as this would occur anyway and the highway authority would have control over any reinstatement works. The parking spaces, turning areas and cycle stores should be provided so that the development functions properly.
30. As previously referred to, details of the provision for waste facilities should be agreed so that the storage areas are discrete and well designed.
31. Measures to enhance the natural environment, taking account of the recommendations in the Ecology Technical Note, should also be undertaken given the policies to this effect in the Framework. However, there is no evidence of reptiles or amphibians at the site and therefore no need for a specific requirement to devise a precautionary method statement.
32. To protect the privacy of the occupiers of 32 Queens Road, the first-floor dormer window of Unit 4 facing in that direction should be obscure glazed. Such a restriction is not necessary for the proposed rooflights or landing window in Unit 4 as they would not give rise to overlooking.

33. The rear garden depths of the proposed dwellings would be modest and those of the terraced houses would be slightly below the Council's standards. As a result, the removal of permitted development rights for extensions and outbuildings is justified although not for other forms of development.
34. Some of the details referred to by these conditions are required before construction starts as they would affect that process and so need to be agreed prior to commencement. Where necessary, the wording of the suggested conditions has been adjusted for simplicity and clarity.
35. The requirement to provide facilities for charging electric vehicles is covered by the Building Regulations and there is no need to duplicate those controls. The Drainage Strategy and Flood Risk Assessment shows how the proposed development could be served in terms of discharge of foul and surface water run off without increasing the risk of flooding in the area. However, no specific mitigation measures are proposed and so a condition requiring their implementation is superfluous.
36. A proposed condition relating to noise transmission between retail or commercial premises and residential use is not relevant. Whilst Queens Road is busy there is no evidence that noise would have an adverse impact on health or quality of life. Therefore, there is no justification for requiring a scheme to demonstrate that specific external or internal noise levels would be achieved. Given that the site is within a well-lit urban area there is also no need to control any domestic external lighting.

Conclusion

37. The proposal would accord with the development plan and there are no material considerations to the contrary. Therefore, for the reasons given, the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 117-100, 117-101, 117-102A, 117-103A, 117-104A and location plan.
- 3) The development hereby permitted shall be carried out in accordance with the External Materials Schedule (revised 9 February 2023) or other external materials previously approved in writing by the local planning authority.
- 4) Prior to the first occupation of Unit 4, its first-floor flank bathroom window shall be fitted with obscure glass that achieves level 3 obscurity as shown on the Pilkington textured glass privacy levels (or equivalent) and shall only be openable over 1.7m above internal floor level. The glazing shall be retained in that condition thereafter.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by virtue of Classes A or E of Part 1 of Schedule 2 to the Order shall be undertaken.
- 6) No development, including groundworks or demolition, shall take place and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until all tree protection measures have been installed in accordance with the tree protection plan DPA-1081-02D within the Arboricultural Report by DPA Arboricultural Consultants dated September 2023. These measures shall be retained for the course of the development and the recommendations in the Report for tree protection, specific working methods and materials and site supervision shall be adhered to.
- 7) No development shall take place until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The approved landscaping shall be carried out prior to the occupation of any part of the development or such longer period as may be agreed in writing by the local planning authority. If, within a period of 5 years from the date of planting, that tree or shrub, or any planted in replacement for it, is removed, uprooted, destroyed, or dies, another tree or shrub of the same size and species shall be planted at the same place unless otherwise agreed in writing by the local planning authority.
- 8) No development shall take place until an ecological enhancement plan has been submitted to and approved in writing by the local planning authority. This plan shall be in accordance with the recommendations of the Technical Note: Ecology by AAe Environmental Limited dated January 2024. The approved plan shall be implemented in accordance with a timescale agreed in writing by the local planning authority.
- 9) None of the dwellings hereby permitted shall be occupied until vehicular access onto Queens Road and St Georges Avenue, the vehicle parking spaces, the vehicle turning areas and the cycle stores have been provided in accordance with the approved drawings. Thereafter the parking spaces, turning areas and cycle stores shall be retained for their intended purpose.

- 10) None of the dwellings hereby permitted shall be occupied until pedestrian inter-visibility splays of 2m by 2m have been provided in accordance with the approved drawings on either side of the accesses onto Queens Road and St Georges Avenue. No obstruction to visibility over 0.6m in height above ground level shall be erected within the splay areas.
- 11) No development shall take place until details of the refuse collection points have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the occupation of any of the dwellings hereby permitted and retained thereafter.