



Appeal Decision

Site visit made on 18 December 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2025

Appeal Ref: APP/K3605/W/24/3347113

1 Berry Lane, Hersham, Walton-on-Thames, KT12 4HN

- 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 Rowe Property Investments Ltd against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/0116.
 - The development proposed is creation of second-floor and third-floor to provide additional flats, glass balustrades to form terraces to front and rear, ground floor bin and cycle storage, ground-floor timber clad storage undercroft following demolition of existing bin store.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, including whether it would preserve or enhance the Hersham Village Conservation Area.
 - The effect of the proposed development on the living conditions of neighbouring occupiers with particular regard to light, privacy and any overbearing effect.
 - Whether the proposed development would make adequate provision for affordable housing.

Reasons

Character and Appearance

3. The Hersham Village Conservation Area (CA) derives its significance as a whole from its historic open spaces including The Green, Vaux Mead and the Memorial Gardens and the layout of the routes and traditional buildings around them. The appearance and layout of the buildings facing these open spaces therefore make a positive contribution to the significance of the CA.
4. 1 Berry Lane is at the end of a group of two and three storey buildings with commercial uses at ground floor. Although their detailing varies they share important characteristics including pitched roofs, mainly two storey heights and a coherent, traditional appearance. On the other side is Hersham Shopping Centre, a two storey building with a large sloped roof adjacent to the

appeal site. These properties face toward the open space of the Green, form its edge and are highly visible from it. Whilst their detailing is varied, their modest height and traditional appearance make a positive contribution to the character and appearance of the area and the important features of the CA.

5. 1 Berry Lane is a two storey property in commercial use at ground floor with flats above. To the front, the building appears as a typical two storey property with hipped and pitched roofs above, it also has a flat roofed element to the rear. Its form and detailing differ from nearby buildings and it is lower in height. Nevertheless, given the character of the surroundings includes a variety of building details, its modest, traditional appearance makes a positive contribution in these respects.
6. The proposed development would include a two storey full width addition above the central part of the site with a crown roof above, as well as a narrower single storey addition projecting to the front with a terrace above. The resultant building would be four storeys high although it would retain the two storey height and pitched roof to the front part of the site, and the two storeys to the rear.
7. The proposed extension would have a different roof form, width and alignment of fenestration to the retained front portion. The single storey element would result in a further inconsistency in width and roof form to the front elevation. Overall, this would result in an awkward and disjointed appearance to the resultant building. Whilst similar in height to Hersham Shopping Centre, the four storeys would be clearly apparent and the extension would be highly visible in public views, including open views from the public open space opposite. Therefore, as a result of its scale, positioning and appearance the incongruous extension would also be unacceptably dominant. The proposed development would therefore be visually jarring and would harmfully undermine the modest and traditional character of the area and the significance of the CA in this regard.
8. Whilst it would not alter the locations of the highways and thoroughfares, nevertheless it would result in a building which would be visually inappropriate and unacceptably dominant. Therefore, it would have a seriously harmful effect on the appearance of the buildings facing The Green and consequently the significance of the CA.
9. Therefore, the proposed development would have a harmful effect on the character and appearance of the area, and it would not preserve or enhance the CA. As such, it would be contrary to policies CS5 and CS17 of the Core Strategy (2011) (CS) and policies DM2 and DM12 of the Development Management Plan (2015) (DMP). Together these seek high quality design with regard to local character, including in Hersham. Also, that in Conservation Areas development should preserve or enhance the character or appearance of the area and must have a sensitive and appropriate response to context and good attention to detail.

Living Conditions

10. There are flats at the adjoining property at 2a The Green. They include a side dormer window which serves a living/dining room and two rear dormer windows at second floor, which are to a bedroom.

11. A terrace is proposed to the front elevation at second floor with a frameless glass balustrade. This would be set back from but higher than the side dormer window. Views would be possible from the terrace towards this window and although they would be at an angle, given the close proximity and elevated height would result in overlooking which would be harmful to the privacy of the adjoining occupiers. Given that harm has been identified with particular regard to the inconsistent appearance to the front elevation, I am not satisfied that introducing further disparity through a higher side boundary to the terrace would be reasonable. As such, this could not be secured by condition.
12. The rear dormer windows at 2a The Green face directly to the rear. The proposed development would introduce a large, blank wall along the boundary between 2a and the appeal site at second and third floor and this would be visible from a 45 degree line of sight. Nevertheless, even considering the angle to the orientation of the site, the open aspect towards the rear from these windows would remain and as such the development would not be overbearing to this room. Furthermore, the proposed development is to the north of 2a The Green and in addition the rear dormer windows would also be likely to receive light from above the development proposed. Therefore, there would not be an unacceptable loss of light.
13. Nevertheless, the proposed development would be harmful to the living conditions of existing occupiers with particular regard to privacy. As such, it would be contrary to policy DM2 of the DMP which requires, in part, to protect the amenity of adjoining occupiers including with regard to privacy.

Affordable Housing

14. Policy CS21 of the CS requires that, where viable, for this development a financial contribution towards affordable housing equivalent to the cost of 20% of the gross number of dwellings should be provided. However, the policy pre-dates the National Planning Policy Framework (the Framework) which states that affordable housing should not be sought for residential developments that are not major developments. There is a significant shortfall in the delivery of affordable housing in this borough. I am provided with local evidence of affordable housing need, the importance of small sites, and that such contributions are viable and therefore do not place a disproportionate burden on developers. Considering the evidence in this case, the Framework's provisions do not outweigh the development plan in this instance.
15. The appellant has indicated that they would be willing to prepare an undertaking on this matter. However, the procedural guide is clear that an executed and certified copy of the planning obligation should be submitted at the time of making the appeal. I am not presented with any mechanism to contribute towards affordable housing provision and consequently the proposed development would not secure any affordable housing contribution.
16. As such, the proposed development would not make adequate provision for affordable housing. Therefore, the proposed development would not comply with Policy CS21 of the CS, the aims of which are set out above.

Other Matters

17. The Council cannot demonstrate a 5 year supply of deliverable housing sites. In the officer report the Council states that it has at least a 4 year supply.

Based on the evidence before me, for the purposes of this appeal, I have considered this position. The appeal scheme would provide two new dwellings in an area where there is a shortfall in the delivery of housing. The development would be a windfall site in an accessible location in a built up area. The number of dwellings on site would increase and this would be an efficient use of land. There would also be associated social and economic benefits. The proposal would use brownfield land within a settlement for homes and I give substantial weight to the value of using such land.

18. The appellant states that measures to address climate change including through the method of construction would be considered at the design and construction stage. However, I am provided with limited evidence as to what or how this would be achieved.
19. These are important benefits. Nevertheless, taking all the above into account and given the scale of the development in this case, overall, these would be moderate benefits.

Heritage Balance

20. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance and that any harm requires clear and convincing justification. In terms of the Framework the harm to the CA would be less than substantial. Nevertheless, this is a matter of considerable weight and importance. Paragraph 215 of the Framework requires me to weigh this harm against the public benefits of the scheme.
21. The public benefits of this scheme would be moderate. On the other hand, having regard to my statutory duty I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I attribute considerable importance and weight to the serious harm identified. Accordingly taking all the above into account, the public benefits would not outweigh the harm to the CA. Consequently, in the context of paragraph 125c) of the Framework this would amount to substantial harm and would represent a strong reason for refusing development in the terms set out in footnote 7.

Planning Balance

22. The Council does not have a 5 year housing land supply, therefore paragraph 11(d) of the Framework is engaged. However, further to the findings above, the application of policies relating to heritage assets provides a strong reason for refusing the development proposed, as set out in footnote 7. Consequently, the presumption in favour of sustainable development does not apply in this case.

Conclusion

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given above the appeal should be dismissed.

H Miles INSPECTOR