
Appeal Decision

Site visit made on 21 July 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/K3605/W/25/3360781

Land North of Leverton, St Georges Avenue, Weybridge, Surrey KT13 0DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr M Leslie, Leverton (Weybridge) Limited against Elmbridge Borough Council.
 - The application Ref is 2024/3105.
 - The development proposed is 2 pairs of two-storey semi-detached houses with rooms in the roof space, new access, associated parking and landscaping.
-

Decision

1. The appeal is dismissed and planning permission for 2 pairs of two-storey semi-detached houses with rooms in the roof space, new access, associated parking and landscaping, is refused.

Applications for costs

2. An application for costs was made by Mr M Leslie against Elmbridge Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. During the course of the appeal, it was brought to my attention that the Council resolved it would no longer seek affordable housing contributions on proposals of fewer than 10 dwellings, pursuant to Policy CS21. This change in policy would apply to all applications determined on or after 23 July 2025. I have therefore determined the appeal on this basis and as such affordable housing is not a main issue.
4. The Council, in its statement of case, identifies the reasons why it would have refused planning permission had it been able to do so. The main issues below, with the exception of affordable housing, are therefore taken from the Council's statement.
5. My attention has been drawn to a previous planning permission at the appeal site for a building comprising 7 flats (reference 2017/4091). Whilst I have had regard to this permission in my consideration of the appeal, it is no longer an extant permission and cannot therefore be built out. Consequently, I attach limited weight to it as a fall-back position.

Main Issues

6. The main issues are the effect of the proposal on:
- the character and appearance of the area, including the effect on trees;
 - housing mix and density
 - the living conditions of future occupiers; and,
 - biodiversity, with particular regard to reptiles.

Reasons

Character and Appearance

7. St George's Avenue is a wide tree lined street where housing is generally set well back from the edge of the footway. The use of grass verges and landscaped settings around dwellings lends the local area a spacious and verdant character. The mature planting and tall trees visible to either side of St George's Avenue, located in the cul-de-sacs or private gardens contribute to this verdant character.
8. The appeal site is located to the rear of a detached flatted mansion block, known as Leverton, on the north side of St George's Avenue. The area between the north side of St George's Avenue and the railway cutting is characterised by 2 to 3 storey 20th Century residential development around cul-de-sacs, comprising a mixture of blocks of flats, terraces and detached dwellings. The local area exhibits a variety of architectural styles, though building finishes are commonly brick and render and tiled, hipped or gabled roofs.
9. Although they are not protected by a Tree Preservation Order, the linear cluster of trees between the appeal site and Outram Place makes a significant contribution to the verdant character of the area between St George's Avenue and the railway line. The proposal would necessitate the removal of 6 trees (T14 to T17, G18 and G19) including common limes and leyland cypress. The arboricultural assessment notes that the trees are 'important locally' and are classified as B category trees of moderate value.
10. I note the appellant's view on the relevance of CS14 of the Elmbridge Core Strategy 2011 (Core Strategy). However, the aim of the policy is, amongst other things, to protect and enhance local landscape character, of which the trees form a part, and it is relevant to the appeal proposal.
11. Although the landscaping scheme would include replacement trees within the front and rear gardens in excess of the number lost, any significant contribution to the verdant character of the area would take many years to develop.
12. Given the significant contribution the trees make to the character and appearance of the area, it would be necessary to understand any potential effect upon the remaining trees prior to any planning permission being granted. However, given the degree of uncertainty as to the magnitude of risk to the trees or potential mitigation, I do not consider the matter can reasonably be dealt with by planning condition. In the absence of sufficient detail regarding the effect of the proposals upon the trees, I cannot conclude that the long-term viability of the remaining trees would not be harmed as a result of the proposal.

13. Policy DM6 of the Elmbridge Local Plan Development Management Plan 2015 (DMP) allows the loss of trees that significantly contribute to the character of an area in exceptional circumstances where the benefits would outweigh the loss. In this case, the 2017 scheme provided an alternative access via the vehicular entrance to Leverton, which would retain the trees. Whilst the 2017 scheme is a consideration, given that the permission has lapsed, I do not consider it provides a realistic fall-back position. Even if I were able to consider it as a fall-back, the benefits of the access arrangement being removed from the side of Leverton would not outweigh the loss of the trees and the consequent effect upon the character of the area.
14. The proposed dwellings would be commensurate with the height of the approved terraced housing at Ikona Court adjacent (reference 2023/1382). Their footprint would, however, be wider and deeper than other dwellings in the immediate surroundings.
15. The proposed roof storey would be bulky and would appear awkward due to the set-backs in the front elevation of each building. In profile, the gable ends to the mansard storey would accentuate both the considerable depth of the buildings and the bulk at roof level. The position of the dwellings set forward from the permitted buildings on Ikona Court and existing dwellings on Outram Place would have the effect of accentuating the buildings' bulk, resulting in an overly dominant appearance relative to the surrounding buildings. This would be particularly apparent in views from Outram Place and Ikona Court.
16. Notwithstanding the above, the proposed use of materials and elevational design would be traditional and would reflect other examples in the local context, notably those on Gloucester Terrace. Whilst I acknowledge the Council's concerns regarding the symmetry of the buildings and position of the dividing line in each pair of houses, when viewed together, the footprint of the two separate buildings would be symmetrical. Although there is a significant area of hardstanding to the front, it would be necessary to accommodate sufficient parking and manoeuvring space. Had the scheme been acceptable in other respects, this aspect could reasonably be controlled by an appropriate planning condition requiring a landscaping scheme.
17. Nevertheless, taken together, the bulk, detailed design of the roof storey, and position of the buildings relative to neighbouring dwellings, along with the effect upon the trees, would result in unacceptable harm to the character and appearance of the area. This would be contrary to Policies CS4, CS14 and CS17 of the Core Strategy and DM2 and DM6 of the DMP. Taken together, and amongst other things, these policies seek to achieve high quality design which integrates with and preserves or enhances local character, along with preserving landscape character and protecting trees that make a significant contribution to the character or amenity of an area.
18. There would also be conflict with the similar aims set out in the National Planning Policy Framework (the Framework) to secure high-quality design.

Housing Mix and Density

19. The dwellings would be very large for 3-bedroomed houses and could realistically accommodate 4 bedrooms through the use of the 'study' as an additional bedroom. The 2nd floor study in each house would be appropriately sized and

naturally lit sufficient to serve as a bedroom. For the purposes of planning policy therefore, the dwellings should be considered to contain 4 bedrooms. At a density of 30 dwellings per hectare (dph), the scheme would be at the lower end of the density spectrum referred to by Core Strategy Policy CS17, which expresses a density range of a minimum of 30dph up to a target of 40dph. Although at the minimum required density, the scheme would not conflict with the range of densities stated in CS17.

20. Core Strategy Policy CS19 states that the Council will seek to secure a range of housing types and sizes in order to create inclusive and sustainable communities, although no specific ratio is referred to by the policy. The supporting text to the policy states that there has been relatively little provision of 1-bedroom flats and 3- bedroom market housing. I have been referred to the Council's 2020 Local Housing Needs Assessment (LHNA) which identifies that 10% of local need is for 4+ bedroom dwellings.
21. As identified by the appellant, the housing target for the borough has significantly increased since the publication of the LHNA, and the evidence base for the 2011 Core Strategy is dated. There is no substantive evidence before me as to whether the need for 4+ bedroom homes has already been met. Whilst this may be the case, as the scheme solely contains 4-bedroom units, it would conflict with the aim of Core Strategy Policy CS19 to achieve a range of unit sizes within housing schemes.

Living Conditions of Future Occupiers

22. DMP Policy DM10 part c states that residential accommodation "should offer residents an appropriate level of ... amenity, including gardens and outdoor space, commensurate with the type and location of housing proposed". This approach is reiterated in the Council's Design and Character Supplementary Planning Document 2012 (SPD). There is no specific dimension or minimum area required by either DMP Policy DM10 or the SPD.
23. The proposed houses would have front and rear gardens. The rear gardens would be small for houses of the scale proposed. Their configuration would nevertheless provide private, functional amenity space with sufficient space for planting, sitting out and allowing washing to dry. The gardens, in my judgement, would be comparable to those in the immediate area. Consequently, the proposal would be in line with the aims of DMP Policy DM10c insofar as it seeks to offer residents an appropriate level of amenity, which would include, amongst other things, the provision of outdoor space.
24. The Council also refer to DMP Policy DM2 with respect to the garden size and consequent effect upon the living conditions of future occupiers. Although the policy is design focused, part (e) refers to outlook, daylight, sunlight and privacy which are not matters in dispute. As such I do not consider this is directly determinative in relation to garden size in this case.

Biodiversity – Reptiles

25. The appellant's initial site survey established that there are slow worms present on site. No on-site receptor area has been designed into the scheme.

26. A mitigation strategy has been provided with the appeal and sets out various measures to be adhered to during construction including the removal of rubble and debris by hand during the active reptile season (March to October), and the staged clearing of vegetation towards the railway embankment adjoining the appeal site. The strategy identifies the railway embankment as a suitable off-site receptor during construction works. There is little detail in the reptile mitigation strategy which sets out how the off-site receptor area would be managed and whether any modification or management of the vegetation on the railway embankment would be required to optimise the habitat available to reptiles.
27. Post-construction, the north boundary fence to the railway embankment would need to be punctuated by gaps along the bottom to prevent habitat fragmentation. Hibernacula are proposed along the northern boundary, open to the rear but incorporated as a landscaping feature within the rear garden boundaries.
28. Whilst I consider further detail would be required in relation to the off-site strategy, I have no reason to consider that this would not, in principle, be an appropriate means of mitigation for the site's reptile population. Although the Council considers a planning obligation would be necessary to secure this the Planning Practice Guidance (Reference ID: 23b-003-20190901) advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. I am satisfied this could reasonably be secured by Grampian condition to make the development acceptable in planning terms. Subject to mitigation, the proposal would be in line with Core Strategy Policy CS15 and DMP Policy DM21 insofar as they seek new development to preserve, manage and where possible enhance existing habitats, protected species and biodiversity features.

Other Matters

29. The appeal site is located within the 400m – 5km buffer zone to the Thames Basin Heaths Special Protection Area (SPA). The SPA is designated due to its lowland heath supporting important populations of ground nesting birds including Dartford Warbler, Nightjar and Woodlark. The conservation objectives for the SPA are to ensure that the integrity of the designated site is maintained or restored as appropriate and that the site contributes to achieving the aims of the Wild Birds Directive.
30. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me as the competent authority in the context of this appeal. The appellant has submitted a unilateral undertaking to secure mitigation for recreational pressure on the SPA. However, as I am dismissing the appeal for other reasons, it is not necessary for me to carry out an appropriate assessment or pursue this matter further because it would not lead me to a different conclusion.
31. The Council have indicated that had the application been determined, it would not have been refused in respect of the effect of the proposal on the living conditions of nearby residents, or the standard of accommodation proposed including the provision of refuse and cycle storage. The Council is satisfied that the proposed

parking and manoeuvring space would be acceptable and in line with the aims of DMP Policy DM7 and the standards set out in the Council's Parking SPD.

32. I do not have substantive evidence to contradict the conclusions of the Council in these matters. The absence of harm means these are neutral considerations in my determination of the appeal.
33. I have had regard to other planning and non-planning matters raised by interested parties. As I am dismissing the appeal on some of the main issues for the reasons given above, I have not pursued these matters further.
34. The site would be subject to the provisions of Biodiversity Net Gain (BNG) pursuant to Schedule 7A of the Town and Country Planning Act 1990 (the Act), which was inserted by the Environment Act 2021. The appeal proposal is required to demonstrate 10% BNG in mitigation. The provision of 4 dwellings and access would entail the loss of some of the vegetated garden.
35. The BNG report submitted with the appeal states that some vegetated garden would be retained, and all ruderal ephemeral habitat would be lost. Although there would be replacement habitats within the private curtilages of the dwellings, these cannot contribute to the final biodiversity score. The report concludes that the development would result in a measurable loss to biodiversity of 69.22% over baseline. To achieve the required 10% BNG, the appellant indicates that it would be necessary for off-site units to be purchased. This would be for the appellant to agree with the Council at the point of satisfying the statutory BNG condition.

Planning Balance

36. Set against the harm I have identified, the appeal scheme would deliver a net gain of 4 family sized houses which could be built out relatively quickly and would provide a good standard of accommodation in a sustainable location. Given the modest number of houses there would be a small, but nevertheless important contribution to the housing supply, supporting the Government's aim of significantly boosting the supply of homes. I attach moderate weight to this benefit.
37. There would be temporary and ongoing economic benefits from the development through construction and future residents' use of local shops and services but given the scale of the proposal those benefits would be limited.
38. The scheme would also offer benefits in the form of landscaping and biodiversity enhancement. Given that the landscape and biodiversity proposals would largely comprise mitigation, the overall benefit would be relatively modest, including the 10% BNG, and I attach limited weight to these benefits.
39. I note the Council cannot demonstrate a 5-year supply of deliverable housing sites, with supply standing at the equivalent of 0.91 years. In these circumstances, paragraph 11d)ii of the Framework is applicable. Footnote 8 of the Framework is clear that the policies which are most important for determining the application are deemed out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard for key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.

40. As described above, the benefits associated with the additional dwellings would be modest, even taking into account the Framework's objective of boosting significantly the supply of housing, and the Council's significant housing land supply shortfall.
41. The Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities, along with encouraging the retention of existing trees. I give significant weight to the harm arising from these matters.
42. The Framework also identifies that an appropriate mix of housing types for the local community should be provided. However, given the age of the evidence base for housing mix and need, I attach limited weight to the conflict with the policy and there is limited evidence of conflict with the Framework in terms of the proposed housing mix.
43. Nevertheless, the harm I have identified to the character and appearance of the area would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

44. 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, the appeal should be dismissed and planning permission refused.

L Francis

INSPECTOR