



Appeal Decision

Site visit made on 18 April 2023

Decision by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 JULY 2023

Appeal Ref: APP/K3605/W/22/3303351

2 Beauchamp Road, East Molesey KT8 0PA

- 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 Octagon Developments Ltd against the decision of Elmbridge Borough Council.
 - The application Ref 2021/2942, dated 13 August 2021, was refused by notice dated 31 March 2022.
 - The development proposed is a detached two storey building comprising 10no. flats with rooms in the roofspace and include associated parking, landscaping, refuse and cycle storage areas following the demolition of the existing house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal submission includes an amended drawing which was not before the Council at the time of its decision. It is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
3. In this case, the drawing depicts amendments to the proposed floorplans, specifically to units 9 and 10. These change bedroom 3 in both units to a study. All parties have been consulted and provided with an opportunity to comment on these changes, that are referred to in the appellant's and Council's appeal statements. Furthermore, the changes are internal only and do not, for instance, involve the relocation of external features such as windows which could have material impacts on neighbouring occupiers. For these reasons, I consider that there would be no prejudice to any party by considering these amendments. I have therefore determined the appeal on the basis of the amended drawings.
4. The appeal site has been the subject of a previous application and appeal for two detached two storey buildings with rooms in the roof containing 10 flats, following the demolition of the existing house (Ref: APP/K3605/W/20/3262953). The application which is subject of this appeal sought to address the concerns of the Inspector in the earlier appeal in relation to the effect on the character and appearance of the area, affordable housing and the size of proposed units.

Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- whether the demolition of the existing house would result in the harmful loss of a non-designated heritage asset;
- the effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular reference to loss of privacy for the occupiers of 2a Beauchamp Road and 18 Spencer Road;
- whether the future occupiers of the proposal would have acceptable living conditions, with particular reference to the size of bedrooms within flats 9 and 10; and
- whether there should be a review mechanism towards the provision of affordable housing.

Reasons

Character and appearance

6. The appeal relates to a prominent corner plot on the southern side of Beauchamp Road at its junction with Spencer Road. It is considerably wider than neighbouring plots on this side of Beauchamp Road. The surrounding area is residential in nature characterised by detached dwellings with some semi-detached houses. There is variation in the width of plots and in the size and height of dwellings. Most buildings have two storeys, but a few are arranged over three floors. Several have rooms in the roof space and dormer windows. The buildings are of varying design and roof treatment and present attractive appearances in the street scene.
7. The current proposal involves a single large building with a significant width. It would front Beauchamp Road and its building line would be brought forward to reflect the line of frontages on the street. Whilst the proposal may result in a reduction in width when compared to the combined width of two buildings in the previous appeal, the overall impression would still be of a building that would be very obviously wider and larger overall than that of neighbouring buildings within the area, to the extent that it would appear incongruous. This is despite a reduction in the floor area when compared with that of the previous appeal. As a result, the building would appear as a singular and excessive mass that would have a harmful effect on the streetscene.
8. There is a variety of roof heights on Beauchamp Road and Spencer Road, and consequently, the height of the proposal would not appear at odds to the streetscene. However, despite the proposal's articulated roof form with brick gable ends and dormers windows, the roof would appear as a large, heavy and somewhat unrelenting mass. There are a few examples of crown roofs in the local area, such as at 8 Beauchamp Road and in Molesey Park Road, but these are generally smaller, and are often screened by neighbouring buildings. Unlike the majority of buildings, the proposal would not be screened by neighbouring properties, thereby emphasising the roof's prominence as an uncharacteristic feature within the streetscene.
9. Although other properties on the street have smaller and more uniform gaps, as the existing building currently maintains a significant gap to 2A Beauchamp Road, the siting of the proposal a large distance from the shared boundary would not be harmful.

10. The materials proposed for the dwelling, which could be secured via a condition, may be acceptable when viewed in isolation. However, the impact of the development, when viewed in its context, due to its size and bulk, which would be emphasised by the crown roof, would cause harm to the character and appearance of the area.
11. For the above reasons, I conclude that the proposal would harm the character and appearance of the area. Consequently, it would conflict with Policies CS7 and CS17 of the Elmbridge Core Strategy (2011) (CS) and with the parts of Policies DM2 and DM12 of the Development Management Plan (2015) (DMP) which require development to be of high quality design, based on an understanding of local character and the context and appearance of East Molesey. I also find conflict with the principles within the Framework and the Elmbridge Design and Character Supplementary Planning Document (2012) (SPD) which expect development to be visually attractive as a result of a good layout whilst maintaining a strong sense of place.

Non-designated heritage asset

12. Whilst the building has not yet been formally designated as a Locally Listed Building (LLB) it has been nominated as part of a review of Local Buildings of Architectural or Historic Interest (the draft list) undertaken by Surrey County Council (SCC). There is disagreement between the main parties as to the status of the appeal building as a non-designated heritage asset (NDHA), and the weight that this should be given in the determination of this appeal.
13. SCC's assessment identifies the building as a largely unaltered example of a late 19th century villa, reflective of the growing demand at the time for housing for the middle classes outside of but close to London. Whilst the appellant notes that hoardings have been erected and access to the dwelling has not been possible for some time, the Assessment includes commentary on the detailing which is apparently original, including two oriel windows with latticework glazing and a further latticed casement window to the front. It also displays brick detailing including corbelling and segmental arches to windows and with large, capped keystones. There is also architectural interest to the conservatory which appears to retain its original glazing including to a large proportion of the roof.
14. A consultation was held on the draft list in early 2023, to which the appellant submitted a detailed rebuttal to the building's inclusion. The Planning Practice Guidance (PPG) is clear that there are a number of processes through which NDHA may be identified and that, irrespective of how they are identified, it is important that the decisions to identify them as NDHA are based on sound evidence¹. Furthermore, the PPG confirms that, in some cases, planning authorities may also identify NDHA as part of the decision-making process on planning applications, for example, following archaeological investigations.
15. I have not been provided with further evidence that the draft list has been formally adopted. The Council did not raise an objection to the principle of demolition during the previous application and appeal process. However, I have no compelling evidence that the building will not appear on the final adopted list, which is supported by a draft assessment of the significance of the building undertaken by SCC. Whilst the PPG states that, ideally, the significance of

¹ Paragraph: 040 Reference ID: 18a-040-2019072

buildings should be judged against published criteria which may be generated as part of the process of producing a local list, it does not preclude the identification of such assets which are not part of a local listing. As a consequence, on the evidence before me I am satisfied that the building has a sufficient degree of significance because of its heritage interest to be given due regard as a NDHA.

16. The proposal would result in the complete loss of the NDHA. Whilst the property is not statutorily listed nor in a conservation area, paragraph 203 of the Framework states that the effect of an application on the significance of a NDHA should be taken into account in determining the application. In weighing applications that affect directly or indirectly NDHA, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Annex 2 of the Framework defines a heritage asset as a building identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. The term includes designated heritage assets as well as assets identified by the local planning authority (including local listing).
17. The appellant, within the Heritage Statement, contends that the appeal building has low – negligible significance derived from its low evidential value and low – negligible aesthetic and historical values. This is due to the mixing of prevalent architectural styles of the late nineteenth century, the unsophisticated articulation of the exterior architectural detailing and quality of materials of both the exterior and interior. For these reasons, the appellant concludes that it is not demonstrably a building of high design quality or merit and does not represent a particularly good example of the late nineteenth century large, detached villa type. Overall, the Statement suggest that it scores low in respect of the other values and interest and as such does not warrant recognition of a locally listed building or NDHA for the purposes of decision making.
18. However, it seems to me, that it is factors such as the mix architectural styles which augment the significance of the building and its unique character within the street scene. In addition, the building is prominently located on a corner plot, with a high level of visibility in the public realm. Overall, as it stands at present, I agree with the Council that the building has local significance which warrants consideration as a NDHA in planning decisions. Its demolition would result in a complete loss of significance, and the loss of the building would cause harm to the character and appearance of the area.
19. The appellant indicates that the building is in a poor state of repair, with significant cracks in several areas. It is not in dispute that extensive remedial works would be required to bring the building back into use. Nonetheless, there is no compelling evidence before me that demonstrates that the building is no longer suitable or appropriate for use as a dwelling, or that it is not possible to bring it back into an economically viable use.
20. I therefore conclude that the proposed development would result in unacceptable harm through the total loss of the NDHA. Therefore, in this respect, it would be contrary to Policies CS7 and CS17 of the CS and Policies DM2 and DM12 of the DMP which, when taken together, seek to ensure that all new development enhances the local character of the area and that the significance of heritage assets are conserved or enhanced and that heritage assets, including NDHA, are retained, where possible. I also find conflict with

the principles of the Framework which for applications affecting non-designated heritage assets, requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.

Neighbouring occupiers

21. The main parties agree that the proposal's side elevation, which contains windows, would be 18.5 metres from the side elevation of 2a Beauchamp Road, which contains windows which appear to serve habitable rooms. There is therefore potential for overlooking from the proposal to the neighbouring property. Whilst this separation distance would be less than the 22 metres outlined within the SPD, I note that this guideline is identified for scenarios where rear elevations face each other.
22. In this instance, the relationship between the properties would be that of side elevation to side elevation. The SPD does not provide a guideline separation distance for such a relationship. The separation distance between the properties would be significant, particularly for a built up area such as this, where a degree of overlooking is not uncommon. In addition, I noted at my site visit, that the separation would be much greater than the separation distances between many properties on Beauchamp Road, many of which also have side facing windows. For these reasons, the proposal I do not find that the proposal would result in an unacceptable loss of privacy for the occupiers of No. 2A.
23. The relationship between the appeal proposal and 18 Spencer Road is also different to the scenario set out within the SPD, as the rear elevation of the appeal proposal faces the side elevation of the neighbouring property. The distance between the elevations of the two properties would be 15.7m.
24. Given the relative position of the dwellings, there is already the potential for a degree of overlooking from the upper floor windows of the existing building at the appeal site. However, the shared boundary between the properties has thick, mature planting which reduces the extent of views from the appeal site to the ground floor window within No. 18's side elevation and its garden.
25. The proposal would result in an increase in the number of upper floor windows, which would serve four separate flats, facing No. 18, facing No. 18's side elevation. In addition, balconies and terraces would be provided at first and second floors facing the neighbouring property. The terraces at second floor level are additional features which did not feature in the proposal which was previously dismissed at appeal.
26. However, I noted at my site visit that several of the existing first floor windows are closer to the shared boundary than the appeal proposal's windows would be. Consequently, the proposal would result in a slight increase in the separation distance of windows to No. 18. Given the extensive mature boundary vegetation, and the slight increase in the distance of the windows when compared to the existing situation, I do not consider that the proposal would result in a demonstrable additional loss of privacy, or perceived loss of privacy, for neighbouring occupiers of No. 18.
27. Consequently, the proposed development would not have an unacceptable impact on the living conditions of neighbouring occupiers. Therefore, in this respect, it would not be contrary to Policy DM2 of the DMP and the SPD. Amongst other aspects these seek to protect the living conditions of occupiers

of neighbouring adjoining properties. I also find no conflict with the principles of the Framework that seeks the creation of places that are safe and have a high standard of amenity for existing and future users.

Future occupiers

28. For the purposes of this appeal, I have used the appellant's measurements which are likely to have a greater level of accuracy than the Council's measurements which are scaled from the drawings. There was disagreement between the parties with regard to the exact internal area of bedroom 2 in flats 9 and 10. The appellant's architects have remeasured the internal area of bedroom 2 and state that the correct internal area is 12.93 metres, which would exceed the minimum set by the Nationally Described Space Standards (2015) (NDSS).
29. The appellant has confirmed that the wall at the external perimeter of the rooms at second floor is 1500mm or higher in all cases. As a result, there is no requirement for these parts of the room to be counted at 50% of their floor area.
30. The appellant accepts that bedroom 3 in both flats 9 and 10 would not meet the required minimums set by the NDSS. For this reason, an amended drawing submitted with the appeal changes the use of the room from a single person bedroom to a study. Regardless of the annotation on the submitted drawings, future occupiers may still choose to use the room as a third bedroom.
31. Were the rooms now labelled as studies to be used as single person bedrooms they would be below the minimum of 7.5 square metres set out in the NDSS, and would not feel like generously sized rooms for future occupiers. However, I note that the first and second bedrooms meet the NDSS standards. There is discrepancy between the main parties as to the total floor area of the dwelling. The Council suggest the units measure 98 square metres, whilst the appellant suggests they are 117 square metres. Regardless, both figures comfortably exceed the 86 square metre standard for a 3 bed 5 person single storey dwelling set by the NDSS. Considering the dwellings as a whole, it is appropriate in this instance to balance the shortfall in the size of the single bedrooms against the other areas of compliance with the NDSS. Given their overall generous size and triple aspects I am not persuaded that a person living here would find the homes unduly cramped or feel that the living environment was oppressive.
32. Consequently, the proposed development would not result in poor quality living conditions for future occupiers. Therefore, in this respect, it would not be contrary to Policy DM2 of the DMP. As the size of two of the bedrooms would not be in full compliance with the minimum space standards within the NDSS, there would be minor conflict with Policy DM10 of the DMP. However, despite this conflict, the quality of the accommodation would be good, and therefore the aim of the policy to provide an appropriate standard of living internally and externally would be met.

Affordable housing

33. Policy CS21 of the Core Strategy requires that for this development a financial contribution equivalent to the cost of 30% of the gross number of dwellings should be provided. Where it is considered that the delivery of affordable

- housing in accordance with the policy is not viable, this must be demonstrated through a financial appraisal. The appellant has submitted a Financial Viability Appraisal which concludes that, based on market conditions, there would not be sufficient scope for a policy compliant affordable housing contribution.
34. The Council's independent viability consultants have confirmed the appellant's contention that the proposals are unviable to support a policy compliant contribution. However, the Council expect the imposition of an early stage review mechanism (ERM) and late review mechanism (LRM) to allow the Council an appropriate method to seek to capture any future planning gain beyond the forecasted levels. Support for this stance is taken from the Council's recently updated Development Contributions Supplementary Planning Document (2021) (SPD).
35. The appellant disputes that a ERM and LRM is warranted for either appeal proposal given the viability findings, but has submitted a completed unilateral undertaking (UU) incorporating a LRM in the event that I consider this to be necessary.
36. The supporting text to Policy CS21 states that if the Council is satisfied that affordable housing cannot be provided in accordance with the policy, "it will seek to negotiate alternative provision". However, there is no mention of an ERM or LRM in Policy CS21 or its supporting text. The recent SPD is a material consideration but is guidance and not planning policy. PPG points out that plans should set out circumstances where review mechanisms may be appropriate, as well as clear process and terms of engagement regarding how and when viability will be reassessed over the lifetime of the development to ensure policy compliance and optimal public benefits through economic cycles. Policy CS21 does not do this.
37. I acknowledge the Council's explanations of an acute need for affordable housing provision in Elmbridge but Policy CS21 only seeks provision of affordable housing "where viable". On the viability evidence before me and through examination of the policy basis upon which the Council is relying, the need for a LRM in the event that either proposal may enable a contribution towards affordable housing has not been demonstrated.
38. There would not therefore be conflict with Policy CS21. Accordingly, the Unilateral Undertaking submitted to provide a LRM is not necessary to make the development acceptable in planning terms and has no bearing on my decision.

Other Matters

39. The Framework seeks to significantly boost housing supply and indicates the value of using suitable land within settlements for homes. It also encourages the optimal use of underutilised land, and states that, where there is a shortage of land for meeting identified housing needs, planning decisions should avoid homes being built at low densities. The proposal would contribute to local housing supply and would represent a more efficient use of previously developed land. These matters weigh in favour of the development.
40. I acknowledge that residential development in this general location is acceptable in principle and the proposal may be compliant with various other provisions of the development plan, for instance the units meet a need

identified within Council documents. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.

41. A number of neighbours have raised other concerns in relation to the development, such as in relation to its effect on parking and highway safety. However, given my conclusions on the main issues and that the appeal is dismissed, there is no need for me to address these in further detail.

Planning Balance and Conclusion

42. It has been put to me that the development plan of Elmbridge Borough Council is out of date and that progress on an up-to-date Local Plan for the Borough has been very slow and is predicated on an unrealistic timetable. The appellant and the Council are in agreement that the Council cannot demonstrate a 5-year housing land supply. The Council's Annual Monitoring Report (2021/22) states that the Council has a 4.36 year housing land supply. However, the appellant also suggests that a number of sites included in the Annual Monitoring Report do not fall within the definition of deliverable as set out in the glossary of the Framework (Annexe 2), and that, were these to be removed from the calculation, the Council's land supply would drop to 3.2 years.
43. Furthermore, housing delivery is also low. The Council has only delivered 70% of its housing as demonstrated by the Housing Delivery Test (HDT) results. The housing delivery has thus been significantly less than 75% of the housing requirements over the previous three years. This represents a shortfall, and I acknowledge the scheme would contribute towards rectifying that shortfall.
44. As a consequence of the housing supply and delivery positions, paragraph 11(d) of the Framework is triggered as the policies most important for determining the proposal are out of date. Framework paragraph 11(d)(i) is not relevant as there are no policies in the Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development. Instead, Framework paragraph 11(d)(ii) states that 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 NPPF taken as a whole.
45. The Framework expects development to safeguard and improve the environment. It also requires decision makers to make a balanced judgement having regard to the scale of any harm or loss and the significance of NHDA. Policies CS7 and CS17 of the CS and Policies DM2 and DM12 are therefore consistent with the Framework.
46. Set against the harm identified there would be limited benefits associated with the proposal, such as making an efficient use of a brownfield site in an accessible location close to facilities and services. Nine additional residential units (in net terms) weighs in the proposals favour. I recognise that the windfall development would incorporate high-quality building fabric and insulation levels alongside renewable technologies. I also note that the current house is in poor condition and is suffering from subsidence.
47. However, in my view, even if I were to conclude there is a shortfall in the five-year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission, such as the impacts on the character and

appearance of the area and through the total loss of the non-designated heritage asset, would significantly and demonstrably outweigh the benefits 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.

48. While I have not found conflict with all policies drawn to my attention, the harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed

B Pattison

INSPECTOR

Richborough Estates