



---

## Appeal Decision

Site visit made on 28 June 2019

**by Gary Deane BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7<sup>th</sup> August 2019**

---

**Appeal Ref: APP/K3605/W/19/3226579**

**61 More Lane, Esher KT10 8AR**

- 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 Simon Foster of Moore Place Development 1 Limited against the decision of Elmbridge Borough Council.
  - The application Ref 2017/0401, dated 9 November 2017, was refused by notice dated 6 February 2019.
  - The development proposed is to demolish No.61 and No.63 More Lane and replace them with flats of mixed sizes over 3 storeys. The scheme proposes parking and associated landscaping with consideration to the existing access and landscape.
- 

### Decision

1. The appeal is allowed and planning permission is granted to demolish No.61 and No.63 More Lane and replace them with flats of mixed sizes over 3 storeys; the scheme proposes parking and associated landscaping with consideration to the existing access and landscape at 61 More Lane, Esher KT10 8AR in accordance with the terms of the application Ref 2017/0401, dated 9 November 2017 subject to the conditions set out in the schedule to this decision.

### Procedural matters

2. An application for costs has been made by the appellant against the Council. This application is the subject of a separate decision.
3. Notwithstanding the address of the site given in the above heading, which is taken from the application form, it is clear from the plans and the description of development that the site comprises both 61 and 63 More Lane. I have assessed the proposal on that basis.
4. The Council is undertaking a review of on-street parking in the local area to which the site belongs. Representations have been submitted in relation to this review, which I have taken into account.
5. Both main parties have referred to drawing number 0213\_PL\_010 entitled *Existing Floor Plans and Elevations*. However, this reference appears to be a typographical error, as the plan before me has the reference 0216\_PL\_010.
6. At the site visit, I viewed the site from 59 More Lane with the consent of the occupier of this adjacent residential property and did so unaccompanied.

7. The appellant has submitted a Planning Obligation, dated 10 January 2019, in the form of a Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990, as amended. The UU commits the appellant to making a financial contribution towards affordable housing. The Council has confirmed that it finds the UU to be acceptable.
8. On 19 February 2019, the Government published its Housing Delivery Test (HDT) results alongside an updated revised National Planning Policy Framework (the Framework). The HDT outcome for the Council indicates that the delivery has been below the requirement over the last 3 years. The Council also accepts that it cannot demonstrate a 5-year supply of deliverable housing sites. The HDT results do not alter that position. The main parties have had the opportunity to address the issue of housing land supply and the Framework through the appeal process.

### **Main issues**

9. The main issues are the effect of the proposed development on the character of the local area and on vehicle parking.

### **Reasons**

#### *Character*

10. The proposal is to erect a single building containing 17 self-contained flats following the demolition and removal of 2 houses and their outbuildings. Each of the existing dwellings occupies a good-sized plot and is set back from the road behind a grass verge, front garden and trees, some of which are protected. Consequently, there is some sense of space and a verdant quality to the local street scene to which the site belongs.
11. The area immediately around the site is mainly residential in character and contains a variety of buildings and dwelling types. To the north, just beyond the railway line is a fairly tightly knit urban area while to the south, buildings are typically larger and more spaciouly laid out with both flats and dwellings evident from the road. Broadly opposite the site is a recent development of flats and houses. Given that varied context, the site does not neatly fall into either Character Area 5 or 6, as described in the Council's Design and Character Supplementary Planning Document (SPD), nor could the appeal scheme reasonably be described as an uncharacteristic form of development.
12. Compared to the dwellings to be replaced, the new building would be larger, bulkier, taller and extend far deeper into the site. The higher parts of the proposed roof would, however, be set back from the front and side elevations with gables and a dormer visually 'breaking up' the new built form when seen from the road. The new building would be well proportioned and it would significantly reduce in height on each side. Although the proposal would include deep flank walls no visual disharmony would result because adequate space would surround the new development. Furthermore, the frontage trees, which would be retained, would partly screen and visually soften the proposal in the local street scene.
13. These arrangements, coupled with the set back position of the new building into the site would retain the spacious feel and verdant character of the local street scene. The mixed residential character of the local area, which includes houses and flats, would remain if the appeal scheme were to proceed. The

proposal would not amount to overdevelopment nor would the appeal scheme be at odds with the varied pattern of existing development. In other words, the proposed development would be compatible within its particular context.

14. On the first main issue, I conclude that the proposed development would not cause significant harm to the character and appearance of the local area. As such, it does not conflict with Policy DM2 of the Elmbridge Development Management Plan (DMP), Policies CS9 and CS17 of the Elmbridge Core Strategy (CS) or the Council's SPD. These policies and guidance seek to ensure that new development delivers high quality design, makes efficient use of land and preserves or enhances the character of the area.

#### *Parking*

15. By providing 13 parking spaces on site to serve the new flats, the Council and others are concerned that the proposal would provide insufficient parking for future occupiers and their visitors. In the eyes of objectors, that shortfall would result in poor living conditions, cause or exacerbate local parking problems, add to traffic congestion and represent a safety hazard to highway users. However, the appellant has provided cogent evidence that the appeal scheme would meet the Council's parking standards as set out in CS Policy DM7 and that the local area is not subject to parking stress by reference to the results of parking surveys.
16. These surveys were carried out on different days confirm that there was a significant number of spaces available along streets in the vicinity of the site for motorists to park. I saw that there were no on-street parking restrictions in the vicinity of the site and noted that several spaces were available relatively close to the site. Having walked from the parking spaces available on Mill Road, Farm Road and Douglas Road, I consider that the trip would not be too time consuming, inconvenient or unsafe even with children or carrying shopping bags during inclement weather. While my observations are a snapshot and do not relate to evenings when the demand for parking spaces is likely to be higher, I am unable to conclude, as the Council and others state, that there is insufficient capacity to cater for additional on-street parking demand that may occur as a result of the proposal. I also note that Surrey County Council, as Highway Authority (HA) has reached a similar conclusion and raises no objection to the new development.
17. If no space were available on site, occupiers of and visitors to the appeal scheme may decide to park inconsiderately or obstructively on the adjacent highway network and thereby impede traffic flows or cause a safety hazard to other road users. While that is a possibility, that could occur at present and I saw no instances of such behaviour during my site visit nor have any examples of such problems been drawn to my attention.
18. If all the on-site parking spaces are occupied, some motorists may find the additional time taken to find an alternative parking space to be inconvenient. Even so, I would not expect those instances to be significant in number or for the their journey time to be increased to any marked degree. While existing residents may find additional cars parked on the road, that is the right of any highway user. Therefore, it is unlikely that the proposal would in itself adversely affect living conditions or add to local traffic congestion to an unacceptable degree. I saw no evidence of the local streets being 'clogged up' with cars nor am I persuaded that the proposal, if allowed, would lead to such

conditions given the relatively low level of vehicle movements likely to be associated with the proposal.

19. There are bus and train services available to future occupiers within convenient reach of the site and secure cycle storage would also to be provided as part of the scheme. The site is therefore reasonably well connected and occupiers of the new flats would have a choice of means of transport other than the private car. As a result, not all future occupiers will necessarily own or have regular access to a car and thus add to the demand for parking.
20. My attention has been drawn to the Elmbridge Parking Review (EPR), which is currently underway and proposes some restrictions to on-street parking near to the site including 'no waiting at any time' around the junction between More Lane and Lower Green Road. According to the accompanying schedule, this restriction is to avoid damage to grass verges and to avoid parking near to the junction. The EPR is at an early stage with no decisions yet taken on whether or not restrictions will be approved and implemented and if so, in what form. Given that uncertainty, I share the opinion of both main parties that the proposal should be assessed based on the current situation.
21. Overall, I am not convinced that the proposal would be accompanied by congestion or occupation of parking space to the extent that significant harm would be caused even taking into account the influx of vehicles associated with school dropping off or picking up times, a nearby industrial area or other permitted schemes. On the second main issue, I therefore conclude that the proposed development would not result in significant harm to vehicle parking. As such, the proposal does not conflict with DM Policy DM7, CS Policies CS9, CS17 and CS25 or the guidance in the Council's SPD, which aim to ensure that adequate parking is provided to serve new development. It also complies with the Framework, which notes that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

#### *Planning balance*

22. The Council is currently unable to demonstrate a 5-year supply of deliverable housing sites. As a result, paragraph 11 d) of the Framework is engaged. This states, amongst other things, 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 Framework taken as a whole.
23. In this case, the proposal would add to the supply of housing and provide smaller residential units for which the Officer's report states is a need, which is acknowledged in the Strategic Housing Market Assessment for Kingston and North Surrey (2016). These considerations carry considerable weight in support of the appeal. The appeal scheme would make an efficient use of land and contribute towards affordable housing elsewhere. There would also be some economic benefits from the sale of materials during the construction phase and from spending by future occupiers. The proposal would also respond positively to local character and optimise the potential of the site. It would make suitable and safe access to the site for all users, with no

unacceptable impact on highway safety. These considerations all weigh in support of the proposal.

*Other matters*

24. To avoid overlooking problems towards the adjacent property, which is No 59 the roof lights in the south elevation of the new building would include obscure glazing. Although there would be lengthy flank wall broadly parallel with the shared boundary with No 59, the new building would be modest in height nearest to the side and rear garden of this adjacent property. Consequently, I consider that the presence of the new building would not feel unduly imposing in views from No 59.
25. Some trees are to be removed, most of which are of lower quality, with the 2 Oaks towards the front of the site, which provide the major landscape presence, to be retained. The appellant's Arboricultural Survey and Planning Integration Report includes a tree survey and identifies measures designed to protect the retained trees. The Officer's report records only minor issues with regard to the detailed specification of these measures, which could be covered by a condition. No post development pressure on these trees is anticipated with only very minor pruning required that would not harm the health, longevity or landscape presence of the retained trees. With appropriate measures in place, the effect of the proposal on trees would be acceptable.
26. The HA raises no objection the proposal to the proposed access arrangements. With a condition in place to ensure that the southernmost access is closed off before any flat is occupied and that the visibility splays for the accesses to be used remain free from obstruction, I agree with that assessment.
27. The Council raises no objection on the grounds of the proposal's effect on the Green Belt, which is just to the west of the site and, on the evidence before me, neither do I. The amenity space available to future occupiers would be satisfactory. Surrey County Council as Lead Local Flood Authority has raised no objection on drainage grounds subject to conditions. Thames Water has also raised no objection in relation to sewage infrastructure capacity.
28. Esher Place Lodge is to the south of the site. Although a sizeable addition and close to the boundary with this locally listed building, the height of the new building would significantly reduce towards the shared boundary and the hipped roof would slope away from view. I share the opinion of the Council's Listed Buildings Consultant that the proposal would not adversely affect the setting of this heritage asset.
29. The appellant's extended Phase 1 Habitat Survey notes that the site may have some features of ecological value. As a result, it makes various recommendations such as a need to make checks for bat roosts and hedgehogs before any site clearance or trees are cut back or removed. It also advises that bat and bird boxes should be installed to enhance biodiversity. With these protective and enhancement measures in place, the Council raises no objection to the proposal in terms of its effect on bio-diversity and nor do I.
30. On the evidence before me, it appears that the need to provide affordable homes sought by the Council arises from the development and it satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010. The UU commits the appellant to make a financial contribution towards affordable homes. As such,

the proposal makes adequate provision for affordable homes and so it complies with CS Policy CS21.

### **Conditions**

31. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings and to require that the development be carried out in accordance with them as this provides certainty. To ensure the satisfactory appearance of the development, conditions are imposed requiring details of external materials, refuse and cycle storage, landscaping and reinstatement of the adjacent footway following closure of an existing access. For the same reason, and to safeguard retained trees, shrubs and hedgerows, a condition is imposed requiring appropriate protection measures. To ensure that the site is properly drained, a condition is necessary to require details of surface water disposal.
32. In the interests of highway safety, conditions are imposed to require details of on-site vehicle parking, arrangements to close an existing access and to ensure that the visibility splays at the accesses to be used are free of obstruction. To safeguard the living conditions of the occupiers of nearby properties, conditions requiring details of any pile driving and the arrangements for demolition and construction in the form of a Construction and Demolition Method Statement are necessary. For the same reason, the south-facing roof lights of the new building should be obscurely glazed. A condition to this effect is therefore imposed. To safeguard and promote biodiversity, a condition is necessary to provide the protection and mitigation measures outlined in the appellant's Preliminary Ecological Appraisal.
33. The Council's Environmental Health and Licensing Manager states that the risk of contamination is low and therefore I see no need for a ground investigation or an asbestos survey, as suggested. As a precautionary measure, it is however, prudent to have in place appropriate arrangements if contamination is unexpectedly discovered during demolition or construction works. This condition is necessary to ensure that the land is suitable for residential use and to safeguard the health and safety of future occupiers and those engaged in the construction of the development. Where necessary, I have amended the Council's suggested conditions for clarity, concision and to more closely reflect national policy.

### **Conclusion**

34. When assessed against the policies in the Framework taken as a whole, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the appeal scheme. Therefore, the proposal benefits from the presumption in favour of sustainable development, which means that the Framework does not indicate a decision other than in accordance with the development plan.
35. For the reasons set out above, I conclude that the appeal should be allowed.

*Gary Deane*

INSPECTOR



**Appeal Ref: APP/K3605/W/19/3226579**  
**61 More Lane, Esher KT10 8AR**

**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 the following approved plans: Refs 0213\_PL\_002, 0213\_PL\_003, 0216\_PL\_010, 0213\_PL\_030D, 0213\_PL\_031, 0213\_PL\_032, 0213\_PL\_042, 0213\_PL\_045, 0213\_PL\_046 and 0213\_SK 001.
- 3) No development other than demolition works shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No flat hereby permitted shall be occupied until the roof lights in the south elevation of the building have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed, the obscured glazing shall be permanently retained thereafter.
- 5) No flat hereby permitted shall be occupied until cycle storage and refuse storage, recycling and collection facilities have been provided in accordance with a scheme that has previously been submitted to and approved in writing by the local planning authority. The approved cycle and refuse storage, recycling and collection facilities shall be permanently retained thereafter.
- 6) No development other than demolition works shall take place until there has been submitted to and approved in writing by the local planning authority a detailed scheme for the disposal of surface water from the site, which includes sustainable drainage measures. The scheme shall include an implementation plan and details of how the system will be installed, maintained and managed during construction and after completion of the development. The approved scheme shall be completed before any flat hereby approved is occupied. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a Construction and Demolition Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding and any other measures to secure the site; wheel washing facilities; measures to control the emission of noise, dust and dirt and vibration during demolition and construction; a scheme for recycling/disposing of waste resulting from demolition and construction works; and the contact details for a community liaison person for the duration of both demolition and construction stages. The approved Statement shall be adhered to throughout the demolition and construction period for the development.

- 8) No development shall take place until a scheme and programme to close the existing southernmost access to the site off More Lane and to reinstate the adjacent footway, verge and kerb have been submitted to and approved in writing by the local planning authority. The closure of that access and the reinstatement of the footway, verge and kerb shall be carried out in accordance with the approved details and programme.
- 9) No flat hereby permitted shall be occupied until space has been laid out within the site for vehicle parking and turning in accordance with a detailed scheme that has previously been submitted to and approved in writing by the local planning authority. The space for vehicle parking and turning to be provided shall be kept available for these purposes at all times and shall be permanently retained as such thereafter.
- 10) No flat hereby permitted shall be occupied until the accesses off More Lane have been constructed in accordance with the approved drawings and are available for use. The accesses shall be retained as such and available for use at all times. No structure, object or planting exceeding 1050 millimetres in height shall subsequently be erected or allowed to grow within the visibility splays on each side of the accesses.
- 11) No trees within the site shall be uprooted, felled, removed, lopped, topped, destroyed or in any way damaged without the prior written approval of the local planning authority, with the exception of those indicated otherwise on the approved plans. Any trees, hedgerows, plants or shrubbery removed without such consent or dying or being severely damaged or being seriously diseased, within five years of the development commencing, shall be replaced within the next planting season with trees, hedgerows, plants or shrubbery of such size and species as may be approved in writing by the local planning authority.
- 12) No flat hereby permitted shall be occupied until hard and soft landscape works have been carried out in accordance with a scheme that has previously been submitted to and approved in writing by the local planning authority. Where appropriate, the scheme shall include: means of enclosure including boundary treatment; car parking layout; pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, gates, signs, lighting); and proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines, services to electronic gates etc indicating lines, manholes and supports). Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers and densities.
- 13) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any trees, shrubs, hedges, plants that within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.



- 14) No site clearance, demolition, preparatory work or development shall take place until a scheme for the protection of the retained trees and the appropriate working methods in accordance with British Standard BS 5837: 2012 (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. There shall be no demolition or construction work, development or development related activity, including the deposit of spoil, disposal of liquids, lighting of fires, or the storage of materials or machinery, within the protected areas. The scheme for the protection of the retained trees shall be carried out as approved.
- 15) No flat hereby permitted shall be occupied until the measures set out in Section 4, Results and Recommendations, in the Preliminary Ecological Appraisal (Extended Phase 1 Habitat Survey), dated 25 August 2017, have been implemented in full. The approved measures shall be permanently retained thereafter.
- 16) Details of the method, timing and duration of any pile driving operations associated with the construction of the development hereby permitted shall be approved in writing by the local planning authority before such operations take place and shall be implemented in accordance with the approved details.
- 17) If, during the course of demolition or development, any contamination is found within the site, it must be reported in writing immediately to the local planning authority and any demolition or development works and operations in that part of the site affected by contamination shall cease. A report specifying the measures to be taken to remediate the affected part of the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and, on completion, a verification statement shall be submitted in writing to the local planning authority. Development shall not recommence in the affected part of the site until the verification statement has been approved in writing by the local planning authority.