



Appeal Decision

Site visit made on 26 March 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/K3605/W/18/3219358

17 High Pine Close, Weybridge KT13 9EB

- 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 Mr David Howe against the decision of Elmbridge Borough Council.
 - The application Ref 2018/1557, dated 20 May 2018, was refused by notice dated 12 October 2018.
 - The development proposed is described as the erection of a new 3 bedroom single storey dwelling with rooms in the roof space.
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Decision

1. The appeal is dismissed.

Application for Costs

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

Procedural Matter

3. Since the appeal was lodged, the National Planning Policy Framework (the Framework) has been revised and the results of the Housing Delivery Test (HDT) has been published. The new version was published and came into effect on 19 February 2019. In light of this, I have sought the view of both parties in writing and taken any subsequent responses into account in reaching my decision.

Main Issue

4. The main issue is whether or not the proposed development makes adequate provision for affordable housing.

Reasons

5. The Council's Policy CS21 of the Elmbridge Core Strategy (2011) (CS) requires the provision of affordable housing as part of residential developments where it is viable to do so. In the case of sites comprising 1-4 dwellings the Council would seek a financial contribution equivalent to the cost of 20% of the gross number of dwellings on the site, secured by a planning obligation.
6. The starting point in determining relevant applications is the development plan and as regards the provision of affordable housing, the Council's approach to

Policy CS21 is based on its need to meet the full, objectively assessed needs for market and affordable housing.

7. In its response to the Framework and the HDT, the Council submitted as evidence its justification for continuing to apply Policy CS21 which was set out in its Statement¹ in 2018. The Statement acknowledged that whilst the council's approach conflicts with national planning policy it is justified due to local circumstances relating to the delivery of affordable housing. These include the acute shortage of this type of housing, the issue of affordability and the contribution small sites make to the delivery of affordable housing. These local circumstances were demonstrated in evidence produced for the Council's Strategic Housing Market Assessment (SHMA) in 2016, and more recently in its 2018 'Assessment – Small Sites Affordable Housing Provision Policy CS21 Supporting Viability Report'.
8. The Council's evidence ably demonstrates that the borough has significantly higher house prices, has severe issues of affordability. Whilst I have considered the appellant's evidence, I am satisfied that contributions from a number of small development sites has not had a negative impact on delivery. There is clear demand for affordable housing and, accordingly, under Policy CS21, such provision would be required from the proposal by way of the requisite financial contribution. No such provision is proposed. There is also no firm evidence to persuade me that if a contribution towards affordable housing was made then the scheme would not be viable.
9. The appellant has asserted that, as a self-build housing scheme, the Framework² provides exemption for a contribution to be made towards affordable housing. However, this is in the context of major development, which the proposal before me does not constitute. The appellant also contends that the Council does not support self-build development. However, it is clear in Policy CS21 that where there is no net increase in dwellings the Council would not treat this type of developer any differently as any other housing provider. Even in the example cited in the Council's response to the appellant³, whereby the self-build development resulted in a net increase of dwellings, the contribution made would be based on the viability assessment submitted by the developer and therefore it maintains a flexible approach. As a result, I am satisfied that the Council's stance on self-build in this case is in accordance with the Framework, in relation to its contribution to housing for different groups in the community.
10. Accordingly, I conclude that the proposed development would not make adequate provision for affordable housing. It would therefore be contrary to Policy CS21 and, in the absence of such an obligation setting out the financial contribution, it would also be at odds with the Developer Contributions Supplementary Planning Document (2012) which supports the adopted policy.
11. In relation to the consistency of Policy CS21 with the Framework, the Council's Statement sets out that when a development is assessed as not being viable due to a contribution being made to affordable housing, the Council will consider on a case by case basis, whether a contribution should be sought or

¹ Statement on the Government's National Planning Policy Framework (NPPF) – Affordable Housing Provision on Small Sites (November 2018)

² NPPF 2019, Paragraph 64 c)

³ Councillor Browne letter 22 June 2018

reduced. There is inherent flexibility in the way the Council applies Policy CS21 and this is reflected in the supporting text the policy by way of its approach to financial viability. The Framework, though, does apply a threshold for the provision of affordable housing, which the proposal would be well below. This attracts significant weight. However, given the established need in the Council area for this type of housing, Policy CS21 should still be applied so that small sites make a contribution to the supply of affordable new homes.

Planning Balance

12. The Council cannot demonstrate a 5-year housing land supply in accordance with the Framework. The HDT also indicates that the delivery of housing has been substantially below the housing requirement over the past three years in the Council area. Paragraph 11 of the Framework is, therefore, engaged. Accordingly, the development plan policy which is most important for determining the planning application is out of date in this instance.
13. The proposed development would make a modest contribution to addressing the deficit in housing land supply, and towards providing housing for different groups and housing mix, including local needs. These factors attract modest weight as benefits.
14. In relation to the adverse impacts, the harm that would arise with regard to the absence of affordable housing provision would be significant, due to the established need in this locality. It would be contrary to Policy CS21. Taking these matters together, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. As a result, the application of Paragraph 11 does not indicate that permission should be granted in this case.
15. I have had regard to the numerous previous appeal decisions referred to by both parties, including on the current appeal site and in relation to affordable housing matters. The timing and circumstances relating to each case have been different. Moreover, I cannot be certain that the evidence provided to the Inspectors is the same as that before me. In any case, I have determined the appeal on the basis of the evidence before me and on its own merits.

Conclusion

16. I find that the proposal would be contrary to the adopted development plans. I have considered material considerations such as the Framework. However, the adverse impacts identified above would significantly and demonstrably outweigh the benefits. When considered as a whole, the Framework does not indicate that permission should be granted. Therefore, in the circumstances of this appeal, there are no material considerations to justify making a decision other than in accordance with the development plan. For these reasons, the appeal should be dismissed.

Paul Wookey

INSPECTOR