



Appeal Decision

by P D Sedgwick BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2020

Appeal Ref: APP/K3605/W/20/3251155

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 2019/2814 dated 6 October 2019, was refused by notice dated 18 February 2020.
 - The development proposed is 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.

Preliminary Matter

2. As affordable housing was the only issue for consideration, and Covid 19 restrictions were in place, I agreed to the appellant's suggestion that a site visit was not necessary in this particular case.
3. Both the Council and appellant were afforded an opportunity to clarify the Council's position regarding its housing land supply and to provide further comments as to whether this has any implications for how I consider the appeal. No response was received.

Main Issue

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

Reasons

5. Policy CS21 of the Elmbridge Core Strategy (July 2011) (CS) requires the provision of affordable housing as part of all residential development where viable. For proposals of 1 – 4 dwellings, a financial contribution equivalent to the cost of 20% of the gross number of dwellings is required secured by a planning obligation. However, paragraph 63 of the National Planning Policy Framework (the Framework) states that affordable housing contributions should not be sought for residential developments that are not major developments and therefore is a material consideration of significant weight
6. The appellant asserts that Policy CS21 is out of date, and that its rigid application is responsible for the Council failing to meet its housing delivery targets. The Council set out its justification for continuing to apply Policy CS21

in its Statement published in November 2018¹. It demonstrates that affordability remains an issue, there is an acute shortage of affordable housing and that small sites have contributed to the delivery of affordable housing.

7. The Statement includes evidence that the Council has been flexible, reducing or waiving the affordable housing requirement where viability evidence supported it. I have seen no substantive evidence that the failure to meet housing targets is because Policy CS21 has placed an undue financial burden on developers, including those that wish to self-build.
8. Furthermore, the Council's requirement for contributions towards affordable housing has also been supported by Inspectors in other appeal decisions submitted in evidence by the Council. They include a previous appeal by the appellant² relating to the appeal site. Whilst I have come to my own conclusions regarding the requirement for affordable housing, they are consistent with those of my predecessor.
9. Overall I am satisfied, based on the evidence before me, that the Council is justified in requiring an affordable housing contribution and that the requirement meets the tests in Regulation 122(2) of the Community Infrastructure Regulations 2010 and paragraph 56 of the Framework.
10. The appellant has provided no evidence to justify waiving the affordable housing contribution on viability grounds. I therefore conclude that the proposed development would not make adequate provision for affordable housing. As such the proposal is contrary to Policy CS21 of the CS and Elmbridge Local Plan Developer Contributions Supplementary Planning Document (February 2012) that seek affordable housing contributions secured by planning obligation.

Planning Balance

11. The Council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the Framework. Consequently, paragraph 11(d) of the Framework is engaged. It requires 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.
12. The proposal would provide benefits in terms of contributing towards the Council's housing land supply and providing jobs during construction, which weigh in favour of the development. In my view, the harm caused by failing to contribute towards the delivery of affordable housing, given the acute local need within the area and the contribution that small sites make to meeting that need, is substantial and would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole. Thus, the proposal would not be sustainable development for which the Framework indicates a presumption in favour.

Conclusion

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

² APP/K3605/W/18/3219358

13. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

P D Sedgwick

INSPECTOR