
Appeal Decision

Site visit made on 7 April 2021

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 April 2021

Appeal Ref: APP/K3605/W/20/3248558

Land South of 8 Arnison Road, East Molesey, Surrey, KT8 9JJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Samuel and Miss Zoe Foxman against the decision of Elmbridge Borough Council.
 - The application Ref 2019/1523, dated 4 June 2019, was refused by notice dated 10 September 2019.
 - The development proposed is described as 'outline planning permission for the erection of one message and alterations to front wall adjacent to Arnison Road to convert disused vehicular entrance to pedestrian gate and alter remaining vehicular gateway to provide visibility splay (all matters reserved)'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Outline planning permission is sought, with all matters reserved. I have determined the appeal on this basis.

Main Issue

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

Reasons

4. The appeal site comprises a parcel of land to the south of 8 Arnison Road. The Council's refusal reason relates solely to the failure of the scheme to make a contribution towards the provision of affordable housing, with Policy CS21 of the Elmbridge Core Strategy 2011 (CS) being the only development plan policy cited by the Council.
5. Policy CS21 of the 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 to be secured by a planning obligation. The appellant however asserts that Policy CS21 is out of date and should therefore only be afforded little to no weight.
6. 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, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). This is therefore a material consideration which I must attach significant weight.
7. The Council's 2016 SHMA confirms that there is a significant need for affordable housing locally. In addition, the Council has provided further evidence regarding the acute shortage of affordable housing in its Statement published in 2018¹. This Statement also confirms the extent to which small sites have contributed to the delivery of affordable housing, confirming that contributions from smaller schemes have supported the provision of 68 new dwellings between 2011 and 2018. Furthermore, the Statement includes evidence that the Council has been flexible, reducing or waiving the affordable housing requirement where viability evidence supported it.
 8. Whilst I have attached significant weight to paragraph 63 of the Framework, the information provided by the Council is sufficient to persuade me that, in the absence of any substantive evidence to demonstrate that an affordable housing contribution would make the proposal unviable, Policy CS21 should continue to be applied in this case.
 9. The appellant has also highlighted paragraph 64 of the Framework and asserts that no affordable housing contribution is required for a self-build scheme. Paragraph 64 states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership (as part of the overall affordable housing contribution to the site). However, when read as a whole, the exemption set out in paragraph 64 c) referencing self-build homes relates to 'major developments' which I take to be developments where 10 or more homes are to be provided, as per the definition of 'major development' set out in Annex 2 (Glossary) of the Framework. The exemption does not therefore apply where a single dwelling is proposed.
 10. I therefore conclude, based on the evidence before me, that the Council is justified in requiring an affordable housing contribution. Whilst I am mindful that the proposal would be self-build, this does not alter my view on this issue. Moreover, the appellant has provided no evidence to justify waiving the affordable housing contribution on viability grounds. Accordingly, the proposal is contrary to Policy CS21 of the CS and the Elmbridge Local Plan Developer Contributions Supplementary Planning Document (2012) insofar as they seek affordable housing contributions.

Planning balance and conclusion

11. It is accepted by both main parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the Framework. Paragraph 11 d) of the Framework is therefore 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 clearly provide benefits in terms of its contribution towards the Council's housing land supply. It would also provide short-term benefits

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

such as providing jobs during construction, which weighs in favour of the development. However, 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 when taken as a whole. This leads me to conclude that the proposal would not be sustainable development for which the Framework indicates a presumption in favour.

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

J Davis

INSPECTOR