



Appeal Decision

Site visit made on 8 February 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 17 February 2022

Appeal Ref: APP/K3605/W/21/3278721

13 Sidney Road, Walton-on-Thames KT12 2NA

- 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 Volodymyr Pyatkovskyy against the decision of Elmbridge Borough Council.
 - The application Ref 2020/3136, dated 12 December 2020, was refused by notice dated 7 May 2021.
 - The development proposed is a new two storey 2-bed 3-person dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has been superseded. I am satisfied that the updates to the Framework do not materially affect its content insofar as it is relevant to the main issue of this appeal. I have therefore determined this appeal with regard to the current version, published in July 2021.

Main Issue

3. The main issue is whether the proposed development would make adequate provision for affordable housing.

Reasons

4. In order to boost its supply of affordable homes, Policy CS21 of the Elmbridge Core Strategy (July 2011) (CS21) requires all development which results in a net increase in dwellings to contribute to affordable housing in the Borough, subject to viability. For development comprising 1 – 4 new dwellings, the policy requires a financial contribution to be paid towards off-site affordable housing, which should equate to the cost of 20% of the gross number of dwellings being provided. This should be secured by a signed planning obligation. No signed planning obligation has been submitted in connection with this appeal.
5. The content of CS21 conflicts with paragraph 64 of the National Planning Policy Framework (2021) (Framework), which says affordable housing should not be sought for residential developments that are not major developments, unless they are within designated rural areas. Major developments are defined in the Framework as development comprising 10 or more new homes or with areas of at least 0.5ha. This position is consistent with the content of the Written

Ministerial Statement (2014) (WMS), and also reflects the content of the Planning Practice Guidance (PPG).

6. Broadly, the thrust of the Framework, PPG and WMS is to ensure financial contributions should not place undue hardship on small developments which could risk frustrating housing delivery. However, there is no substantive evidence before me which suggests Policy CS21 is placing undue financial burden on developers within Elmbridge. Indeed, the Council's Statement on Affordable Housing Provision on Small Sites (Update) October 2021 (SAHPSS Update) shows that in the vast majority of cases, developers of small sites have been able to meet the affordable housing requirement set out in Policy CS21 in full, without any viability concerns. Where viability issues have been evidenced, the Council has either reduced the contribution requirement or else waived it completely, thereby ensuring such requirements do not impede housing delivery. In this instance, the appellant even indicated an intention to pay the necessary financial contribution during progression of the planning application.
7. Moreover, the SAHPSS Update highlights an acute and substantial need for affordable housing within Elmbridge. This need is due to continued affordability issues for first-time buyers, associated with soaring house prices which are significantly above regional and national averages. The Council's evidence clearly demonstrates that small sites make a valuable contribution to the provision of affordable homes in its area, and without such contributions, the Council would significantly limit its capacity to support delivery of such homes.
8. On the given evidence, I am therefore satisfied that the Council is justified in requiring small sites to contribute towards affordable housing within the Borough, where viable. As the appellant has not submitted a completed planning obligation securing the required financial contribution nor provided any information to demonstrate such a contribution would render the development unviable, I consider that the development would fail to make adequate provision for affordable housing. It would therefore conflict with Policy CS21 for the reasons set out above, as well as the Development Contributions Supplementary Planning Document (July 2020).

Planning Balance

9. The Council cannot currently demonstrate a five-year housing land supply. Consequently, paragraph 11(d)(ii) of the Framework is engaged, which says 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 as a whole. Whilst the Council's Core Strategy does date back to 2011, the weight to be attached to its policies does not hinge on its age. Rather, paragraph 219 of the Framework is clear that due weight should be given to existing policies according to their degree of consistency with the Framework.
10. As highlighted above, the content of Policy CS21 does conflict with paragraph 64 of the Framework, and must therefore be afforded significant weight. Nonetheless, there are several other policies in the Framework which emphasise the importance of boosting the supply of affordable housing, particularly where there is an identified need and where provision would address the needs of groups with specific housing requirements. In this instance, and given the acute affordability issues within Elmbridge and the

significant need for more affordable housing within the Borough, even greater weight must be afforded to the consistency of Policy CS21 with these elements of the Framework.

11. In terms of benefits, the addition of one dwelling would only make a minor contribution to the Council's housing stock. Consequently, I consider that the harm arising from the development's failure to make adequate for affordable housing provision would significantly and demonstrably outweigh such benefits when assessed against the policies in the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Other Matters

12. Whilst I acknowledge that the Council agreed to waive the financial contribution in respect of a new dwelling at 10G Sidney Road, I am satisfied that the Council now has robust evidence in place to demonstrate a need for the continued application of Policy CS21, and is therefore justified in its requirement for small sites to contribute towards affordable housing in the Borough. In terms of the appeal decision cited by the appellant relating to Hawkswell Gardens, this relates to development in Oxfordshire, and is therefore not relevant to the position in Elmbridge.

Conclusion

13. The development would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

James Blackwell

INSPECTOR