



Appeal Decision

Site visit made on 27 March 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 May 2023

Appeal Ref: APP/K3605/W/22/3297001

2 Littleheath Farm Cottage, Steels Lane, Oxshott, Leatherhead KT22 0RX

- 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 Richard Evans against the decision of Elmbridge Borough Council.
 - The application Ref 2021/3332, dated 21 September 2021, was refused by notice dated 9 March 2022.
 - The development proposed is described as the 'conversion of existing garden outbuilding to provide 2 bed dwelling and porch addition with associated parking and altered fenestration.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 has been provided (S106 UU) as part of this appeal. It includes obligations relating to affordable housing contribution and the Thames Basin Heaths Special Protection Area (SPA). The Council have stated that this addresses two of the reasons for refusal and that they therefore do not wish to contest those reasons.

Main Issues

3. The remaining main issues in this case are:
 - the effect of the development on the character and appearance of the surrounding area; and
 - the effect of the proposed development on flood risk;

Reasons

Character and Appearance

4. Oxshott is described in the Cobham, Stoke D'Abernon, Oxshott and Downside Companion Guide to Design and Character Supplementary Planning Document (SPD) (2012) as having '*a strong semi-rural village character, while the majority of housing is medium to large detached there is variation in scale with some single, but mostly two-storey housing*'.
5. Whilst there are a few single storey properties evident, surrounding the appeal site, Steels Lane and its immediate surroundings are mostly characterised by two storey properties, set back from, but fronting the highway, with off street

- parking to the front. Whilst there is a variety in the appearance of these properties, there is consistency in scale and siting. As such, there is a uniform pattern of development and spacious character to the surroundings.
6. The proposal would convert the existing outbuilding sited at the rear of 2 Littleheath Farm Cottage into a separate independent dwelling. The dwelling would be accessible through a rear lane, which provides access to a row of garages.
 7. The existing outbuilding is not particularly visible from the main road however it is visible from neighbouring properties. A new independent dwelling in this location would represent residential development at odds with the general linear pattern of highway fronting dwellings along Steels Lane and the surroundings. It would sit apart on a rear access lane next to the remaining garages, and not reflect the form or grain of existing development. It would therefore harm the established character of the surroundings. Moreover, the dwelling would retain the appearance of a single storey outbuilding, incongruously contrasting with the immediately surrounding mostly consistent two storey dwellings.
 8. I acknowledge that the building already exists, however it does not follow that the approved garage is an appropriate site for the proposal, given the differing impact upon the character and appearance of the surroundings of an independent dwelling, as set out above. The materials used may be appropriate, and even if the appearance of the building would be improved by the replacement of the garage doors with an entrance canopy and front door, this does not mitigate the harm identified to the character and appearance of the surroundings. Other backland development sites are referred to by the appellant, however little detail of these is provided, and as such comparison with the appeal scheme is not possible. I therefore cannot give these developments any weight.
 9. I conclude that the development would harm the character and appearance of the surrounding area. Accordingly, the proposal conflicts with Policies DM2 and DM10 of the Elmbridge Local Plan Development Management Plan (2015) (LP) and Policies CS10 and CS17 of the Elmbridge Core Strategy (2011) (CS), which collectively require development to understand, respect, integrate with and make a positive contribution to the street scene and character of the area. These policies are in broad conformity with the National Planning Policy Framework (the Framework).

Flood Risk

10. The 'Positions Report' submitted during the appeal process sets out that, following updated Environment Agency (EA) mapping that the appeal site is located within Flood Zone 1, whereas previously it was located within Flood Zone 2. This is not disputed by the Council.
11. As such, the site within an area at low risk of flooding, as set out by Planning Practice Guidance (PPG), and, in accordance with Paragraph 167 of the Framework and the SPD 'Flood Risk' (2016), a Flood Risk Assessment (FRA) is not necessary.
12. A FRA was originally submitted with the application however. The Council's independent assessor raised issue with the FRA and set out that it did not meet

the requirements of CS Policy CS26 and the Flood Risk SPD and I also note the third party comments on this subject. However, given the updated EA mapping, based on the evidence before me, I am satisfied that the further details requested by the Council in relation to flood risk are not necessary in this instance given the low risk of flooding in this location.

13. Notwithstanding this, the Lead Local Flood Authority (LLFA) requested information regarding the position of an ordinary watercourse. The correspondence between the appellant and the LLFA/Council sets out that the watercourse was culverted into a piped drain, which is located along the eastern side of the boundary of the site. This is shown on drawing A665 07A. No alteration to this is proposed as part of the proposed development.
14. I note that the LLFA/Council suggest a condition relating to further details including the depth of the piped drain and location of the manholes. Were I minded to approve the scheme, this condition, along with details of the surface water drainage scheme, would be sufficient to ensure that the flood risk is minimised and there is not an increase in flood risk elsewhere as a result of the development.
15. I therefore find no conflict with CS Policy CS26, which states that development must be located, designed and laid out to ensure that it is safe and the overall and local risk of flooding is reduced, and the advice set out in the Flood Risk SPD.

Other Matters

16. The Submitted S016 purports to provide a contribution to affordable housing and to mitigate the effects of the development on the SPA. However, as I am dismissing the appeal for other reasons, I have not considered the undertaking in detail because it could not lead me to a different decision.
17. I note that letters of support have been received, however these do not lead to me to different conclusion on the main issues.
18. The appellant described the site as previously developed land, however, the Framework specifically excludes residential gardens in built up areas from its definition of previously developed land.

Planning Balance and Conclusion

19. While the quantum of shortfall is not in evidence, the Council accepts that it cannot demonstrate a five year supply of deliverable housing sites. Furthermore, the Government published the Housing Delivery Test: 2021 Measurement (HDT) on 14 January 2022. These figures show that, over the preceding three-year period, only 70% of the Council's housing requirement was delivered. Therefore, having regard to Framework footnote 8, Framework paragraph 11d) applies.
20. The proposal would result in an additional unit of accommodation which would contribute to addressing this shortfall and to the Government's broader objective of significantly boosting the supply of homes, as supported by Framework paragraph 60. There would also be the benefit of the financial contribution towards the provision of affordable housing secured by the s106. As a 1-2 bed unit, the proposal would be of a small size that contributes towards the identified needs of the Borough in a location with good access to

services and facilities. I also acknowledge that the development would make efficient use of the site and would be of an appropriate density, as supported by Framework paragraphs 119 and 120.

21. The appellant refers to the lack of conflict with policies relating to issues such as the living conditions of future occupiers and occupiers of neighbouring dwellings and highways impact, however, this to be expected in any development and does not weigh in favour of the proposal.
22. I have taken full account of all the matters advanced in support of the proposal. However, due to the nature and scale of the appeal proposal, the benefits would be relatively limited. The harm to the character and appearance of the surrounding area is a matter to which I attribute great importance, in accordance with Framework paragraph 130. Even if the shortfall in terms of five year supply of housing sites was significant, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Hence, the proposal would not comprise sustainable development.
23. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

B Phillips

INSPECTOR