



Appeal Decision

Site visit made on 8 November 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2024

Appeal Ref: APP/K3605/W/23/3315453

Land North West of Campbell Cottage & 1 Beacon Mews, South Road, Weybridge, Surrey, KT13 9DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of outline planning permission subject to conditions.
- The appeal is made by Ms G Hewett against the decision of Elmbridge Borough Council.
- The application Ref 2022/0461, dated 7 February 2022, was approved on 26 July 2022 and planning permission was granted subject to conditions.
- The development permitted is outline planning permission for a detached two-storey building to provide Offices for Class E(g)(i) with associated parking, bin, and cycle stores (for access, appearance, layout and scale).
- The condition in dispute is No 12 which states that *'the development hereby permitted shall only be used as Class E (g)(i) offices and for no other use including residential or any other Class E uses without written consent of the Local Planning Authority'*.
- The reason given for the condition is *'in order that the development should not prejudice highway safety nor cause inconvenience to other highway users to support the sustainable development objectives of the National Planning Policy Framework 2021 and satisfy policy DM7 of the Elmbridge Local Plan April 2015 and CS25 of the Elmbridge Core Strategy'*.

Decision

1. The appeal is allowed and the planning permission Ref 2022/0461 for the erection of a detached two-storey building to provide offices for Class E(g)(i) or two dwellings with associated parking, bin and cycle stores on Land North West of Campbell Cottage & 1 Beacon Mews, South Road, Weybridge KT13 9DZ granted on 26 July 2022 by Elmbridge Borough Council is varied by deleting condition 12 and substituting this with a modified version together with the additional condition set out below.

Condition 12 - The development hereby permitted shall only be used for the purposes listed within Class E (g)(i), Part A, Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) or as two dwellings.

Condition 14 - The building hereby permitted shall not be occupied for residential purposes until a plan detailing the internal layout (maximum of 2 bedrooms) together with the provision of private outdoor space (including boundary treatments) for each dwelling has been submitted to and approved in writing by the local planning authority. The development shall thereafter be provided in accordance with the approved details prior to the first occupation of either dwelling and retained as such thereafter.

Preliminary Matters

2. In determining the appeal under section 78 of the Town and Country Planning Act 1990, section 79(1) enables me to (a) allow or dismiss the appeal, or; (b) reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not), and I may deal with the application as if it had been made to me in the first instance. I also have the power to amend the description of the development. The proposed variation of condition would introduce a residential use which would be inconsistent with the description of development as set out on the planning application form and the Council's decision notice. Consequently, in considering the appeal proposal, it is necessary to amend the description of development and I have done so accordingly. This is set out in the decision above.
3. The amended scheme would differ to that considered and consulted upon by the Council. However, all interested parties were informed of the appeal and thus would be aware of the proposal. Moreover, an alternative scheme for the erection of two dwellings¹ has been given planning permission by the Council at the appeal site. This alternative scheme is fundamentally the same as the appeal proposal in terms of the overall scale, design, and layout. For these reasons, I do not consider that the interested parties would be prejudiced.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, the amendments therein do not alter the consideration of the main issue in this appeal.
5. The application is in outline. Approval is sought in respect of access, layout, scale, and appearance. Landscaping is a matter reserved for future consideration. The Council considered the appeal proposal on this basis, and I shall do the same.

Background and Main Issue

6. The appeal proposal seeks to vary condition 12 as set out previously to read as *'the development hereby approved shall only be used as Class E (g)(i) offices or for a maximum of two residential units (subject to compliance with Class MA-Permitted Development Rights) and include the off-street parking and for no other use including any other Class E use without written consent of the Local Planning Authority'*.
7. Having regard to the above, the main issue in this appeal is the effect that varying the condition would have on highway safety, with particular regard to on-street parking stress.

Reasons

8. The appeal site comprises a vacant plot of land which is currently used as an informal off-street parking area. Adjacent to the appeal site, along one side of the road is a short stretch of on-street parking spaces, access to which are limited to permit holders only. Double yellow lines prohibit on-street parking on the remainder of South Road. At the time of my site visit, in the early afternoon, all the permit holder spaces were occupied. Whilst parking demand may differ at

¹ 2022/0441 – Pair of semi-detached two-storey houses with associated parking and bin and cycle store. Permission granted 8 March 2023.

other times of the day, there is no evidence before me to suggest that my observations were untypical of the road.

9. Class E, Part A, Schedule 2 of the Town and Country Planning (Use Classes) Order 1987 relates to commercial, business and service premises. The uses therein are wide ranging and include the display or retail sale of goods, sale of food and drink, financial services, professional services or indoor sport, recreation, or fitness, principally to visiting members of the public.
10. The wide range of businesses that could operate under the provisions of Class E means that an unrestricted use would have the potential to generate greater volumes of traffic and demand for parking than that anticipated by operational or administrative functions. As there are limited parking spaces proposed within the appeal site and parking permits are not available to non-residents, cars associated with the appeal building would be likely to park on the street. Considering the parking restrictions in the nearby streets limiting the on-street spaces available, I consider this would lead to instances of dangerous and obstructive parking such as on yellow lines, at road junctions, on footways or across driveways. This would contribute to highway congestion and as a result would compromise highway safety. Consequently, I find that it is both necessary and reasonable to limit the use of the building to (g)(i) by condition.
11. Policy DM7 of the Elmbridge Local Plan Development Management Plan 2015 (Local Plan) sets out that a minimum provision of one space per residential unit will be required whilst the standards set out in the Parking Supplementary Planning Document 2020 (SPD) require 1.5 spaces per 2 bed unit. The site plan demonstrates that 2, off-street parking spaces would be provided within the site frontage. However, in the absence of any plan indicating the internal layout of the proposed dwellings, I cannot be certain of the number of bedrooms proposed. That said, having regard to the fallback position, I consider that it would be reasonable to limit the number of bedrooms within each unit to a maximum of 2 by condition. It is on this basis that I have considered the appeal.
12. On this basis, there would be a shortfall of spaces when taking account of the SPD. Nevertheless, I am not persuaded that one additional car would significantly exacerbate parking pressure on nearby roads. Therefore, and whilst noting that the residential use of the building and associated parking implications was not previously considered, for these reasons and subject to a condition requiring the provision of the parking spaces prior to first occupation, I am satisfied that the indicated parking provision would be adequate for residential use. Moreover, in allowing the appeal on this basis, there would be no material difference to the situation as permitted by the 2022 scheme.
13. For these reasons, I do not consider that varying the condition would adversely affect highway safety, with particular regard to on-street parking stress. The proposal would be in accordance with Policy DM7 of the Local Plan and Policy CS25 of the Elmbridge Core Strategy 2011, in so far as the parking provision would be appropriate to the development and would not result in an increase in on-street parking stress in the locality. It would also be consistent with the highway safety objectives set out within the Framework.

Other Matters

14. Permission has been denied at the appeal site for both non-residential and residential development on the grounds of highway safety. However, as these schemes made zero provision for off-street parking, they were materially different to the appeal proposal.
15. The Thames Basins Heath Special Protection Area (SPA) is designated under the Conservation of Habitats and Species Regulations 2017 and comprises a network of heathland sites which support internationally important numbers of bird species including Dartford Warblers, Woodlark and Nightjar. These birds' nest on or near the ground and thus are very susceptible to predation and to recreational disturbance. The conservation objectives for the SPA are to ensure that the integrity of the designated site is maintained or restored as appropriate and that the site contributes to achieving the aims of the Wild Birds Directive.
16. An increase in residential development close to the SPA has the potential to result in increased recreational pressure. In turn, this can lead to the disturbance of the ground-nesting birds, erosion of the surface of the SPA and soil quality. The appeal site lies within the 5km to 7km zone of influence. The Council's Development Contributions Supplementary Planning Document 2020 indicates that within this SPA buffer, it is not necessary to provide mitigation for smaller development proposals as they are unlikely to result in increased recreational pressure. As such, the proposal would not have a likely significant effect on the integrity of the SPA.
17. Given that the office accommodation has not yet been provided, the proposal cannot be reasonably described as resulting in the loss of employment space. The condition as proposed would provide flexibility in terms of future use and the potential for employment would remain. In any event, there would be no difference to the fallback position, which would have reasonable prospect of being delivered were the appeal to fail.
18. The daily movements and activities associated with a residential use would likely differ to that of the office use. However, given the scale of the proposed residential development relative to the office use, and the residential character of the area, I do not consider that this would give rise to unacceptable disturbance. Furthermore, due to the siting of the building relative to neighbouring properties together with the location of windows, the living conditions of neighbouring occupiers, in terms of outlook, overshadowing and privacy would not be adversely affected.

Conditions

19. For the reasons set out above, I have found that the variation of condition 12 would be acceptable. However, the wording of the condition proposed by the appellant would not be appropriate as this would override the requirements of Class MA. I have therefore amended the condition accordingly.
20. To ensure that adequate living conditions are provided for the future occupiers of the proposed dwellings, details of the private outdoor space, including boundary treatments are required. In the interests of highway safety, it is necessary to limit the number of bedrooms to a maximum of 2 per dwelling. For reasons of conciseness, I have combined these requirements into a single

condition requiring details of the internal and external layout of the proposed dwellings prior to first occupation.

Conclusion

21. For the reasons given above the appeal succeeds. I will vary the permission, substituting the disputed condition with a modified version and imposing the additional condition as set out above.

H Wilkinson

INSPECTOR