



---

# Appeal Decision

Site visit made on 1 July 2024

**by A Hickey MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 August 2024**

---

**Appeal Ref: APP/K3605/W/23/3335062**

**1 French Gardens, Cobham, Surrey KT11 2AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Windsor Homes Ltd against the decision of Elmbridge Borough Council.
  - The application Ref is 2022/0650.
  - The development proposed is described as a terrace of 3 two-storey houses with rooms in the roof space, dormer windows, parking and associated landscaping following demolition of existing dwelling and outbuildings.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have used the description of the development as set out on the appeal form and decision notice within my decision above, as they more accurately describe the development proposed.
3. A revised National Planning Policy Framework (the Framework) was published following the Council issuing its decision. The main parties have had the opportunity to comment on the revised Framework during the course of the appeal.
4. During the course of the appeal, the Council confirmed that it could now demonstrate the required supply of deliverable housing land. The appellant has not disputed this, and I have determined the appeal accordingly.
5. The reasons for refusal set out in the Council's decision notice included the lack of a satisfactory legal agreement to secure a financial contribution towards the Strategic Access Management and Monitoring (SAMM) (3) and lack of a satisfactorily completed legal agreement to secure an affordable housing contribution (4). A revised obligation was received during the appeal process to secure the required contributions. The Council confirmed in its statement of case that subject to the corrected obligation, they will withdraw refusal reasons 3 and 4. I have therefore dealt with the appeal on that basis.
6. As part of their appeal submission the appellant has provided additional drawings. Whilst not substantial changes, they have the potential to affect consideration of the main issues. Having regard to the Wheatcroft<sup>1</sup> and

---

<sup>1</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Holborn<sup>2</sup> principles, as well as the procedural guidance<sup>3</sup>, I conclude that it would not be fair or reasonable to determine the appeal against the additional drawings. To do so would prejudice interested parties who I cannot be sure have had the opportunity to comment on these revised drawings. Therefore, I have not taken them into consideration but have determined the appeal on the basis of the plans and information originally submitted to the Council.

## **Main Issues**

7. The main issues are the effect of the proposal on:

- the character and appearance of the area; and
- whether or not the proposal would be satisfactory in respect of housing mix and density.

## **Reasons**

### *Character and appearance*

8. The appeal site is located within the Tartar Hill Character Sub-area as defined in the Design and Character Supplementary Planning Document (SPD). The Cobham, Oxshott, Stoke D'Abernon & Downside Companion Guide to the SPD describes the area as a fine grained character area of two principal phases. Phase one is a late Victorian/Edwardian extension to the town characterised by a tight network grid of streets with terraces and semi-detached houses with small front gardens strongly defining the townscape. Roads include the lower parts of Hogshill Lane, Cedar Road and Spencer Road. The phase 2 phase has seen further development along principal routes (some existing such as the upper part of Hogshill Lane) and some new roads, such as Freeland Road both of which are lined with larger houses set back in gardens.
9. The appeal site lies on a corner plot at the junction of French Gardens and Hogshill Lane which is a residential area comprising a mix of dwelling types and sizes. At this junction, the pattern and grain of development starts to become looser, heading towards Paddock Close with plots set back further from the road behind tree-lined verges and verdant gardens.
10. Further back in the opposite direction, with the exception of 44 Hogshill Lane, dwellings are more densely positioned and set back from the road with short front gardens. In many cases, these gardens have been removed and replaced with parking spaces. This does not, however, alter the character of the area, which has coherent linear rows of modest two-storey semi-detached dwellings.
11. Given the orientation of the existing property, the tree-planted verge and the large hedge fronting Hogshill Lane the appeal site is more visually associated with properties on French Gardens. French Gardens is formed of two-storey dwellings closer to the street entrance with bungalows positioned to the rear end of the road.
12. The existing bungalow on the appeal site is of limited single-storey form occupying a modest footprint in a verdant spacious setting. Although it is of little architectural merit, the existing dwelling does appear subservient in the street scene commensurate with the spacious character of residential

---

<sup>2</sup> Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

<sup>3</sup> Planning Inspectorate Procedural Guide: Planning Appeals – England (updated 28 May 2024)

development in the immediate area. Additionally, I observed that the dwelling was occupied and did not appear unkempt.

13. The design of the appeal scheme has seen rooms incorporated in the roofs to replicate the general two-storey appearance of nearby dwellings. However, even when taking into consideration the gradual rise of the street, the proposed building would appear substantially taller than surrounding development. The accommodation in the roof space with high eaves, tall gables and roof level windows, contributing to that appearance of height. This, combined with the considerable depth of the building, would result in a bulky building that would appear prominent and obtrusive such that it would be incongruous within the street scene.
14. The Bridle Gates development nearby is of a comparable height. However, it is set back some distance from the road. This results in the development being subordinate within the street scene. In contrast to No 44, the gable projections on the appeal scheme would be both taller and contain windows, further highlighting their prominence and incongruity. Surrounding gable projections are also less pronounced and in keeping with surrounding built form. Similarly, there is a limited example of dwellings with roof alterations such that instances identified by the appellant are atypical rather than reflective of the neighbouring built form. In this regard, existing developments are materially different to the appeal proposal.
15. In light of the above, I conclude that the proposed development would result in unacceptable harm to the character and appearance of the area. The proposal is therefore contrary to Policies CS10 and CS17 of the Elmbridge Core Strategy (ECS), Policy DM2 of the Elmbridge Development Management Plan, and the Design and Character SPD. These seek, amongst other things, well-designed and high-quality new development that integrates sensitively with the locally distinctive townscape. It is also contrary to the Framework, which seeks developments that are sympathetic to local character.

#### *Housing mix*

16. ECS Policy CS17 states, in part, new development will be required to deliver high quality and inclusive sustainable design, which maximises the efficient use of urban land whilst responding to the positive features of individual locations, integrating sensitively with the locally distinctive townscape.
17. Policy CS17 also seeks to ensure that development maximises the efficient use of urban land. It sets out an overall housing density target of 40 dwellings per hectare (dph), with a minimum requirement of 30dph but, where overriding harm to the valued character of an area would occur due to the application of the minimum density threshold, lower densities, which maximise the efficient use of land, may be acceptable in exceptional circumstances.
18. ECS Policy CS19 identifies that a range of housing types and sizes will be sought, reflecting the latest Strategic Housing Market Assessment (SHMA). The Council has also produced two Development Management Notes<sup>4</sup>, which explains the authority's operations to optimise development land and to understand housing need.

---

<sup>4</sup> Development Management Advice Note 1: Understanding Housing Need September 2018 and Development Management Advice Note 2: Optimising Development Land September 2018

19. The Framework states that planning decisions should promote an effective use of land in meeting the need for homes. The Framework at paragraph 128 also states decisions should support development that makes efficient use of land taking into account a list of specified criteria.
20. The Council acknowledges that the scheme would achieve a development density of approximately 34.8 dph on this site in accordance with the Council's minimum requirements. High levels of unaffordability have also not been disputed. However, the evidence before me clearly indicates a need for 1, 2 and 3 bedroomed units. Moreover, it indicates that dwellings with 4 or more bedrooms are already well-provided for to meet the identified local housing needs.
21. The Council have raised concerns that given the study room sizes in the roof space and first-floor living space for the middle unit, these rooms could easily be converted to bedrooms. I acknowledge that during and following the Covid-19 pandemic working from home has become more commonplace. However, given the location of these rooms on the upper floors there is nothing to suggest that these rooms could not be quickly and easily converted into an additional bedroom at a later date. As such, I find that for the purposes of ECS Policy CS19, they should be regarded as 4-bedroomed properties.
22. Whilst not determinative to my conclusion, I recognise that the Development Contributions Supplementary Planning Document identifies rooms that have a realistic chance of being converted into a bedroom which would accord with my own findings.
23. In terms of the size of units, the appeal proposal would result in the development of three 4-bedroom dwellings, which would not meet the identified local needs for smaller-sized dwellings. This would represent a mismatch between needs and provision within a borough constrained by protective land designations. As such, the proposal would not make the optimal use of the potential of the appeal site. This would have a significant adverse impact on the future supply of smaller dwellings to meet the identified local housing needs.
24. For the above reasons, the appeal scheme would not represent the efficient and effective use of land within the urban area, with particular regard to meeting identified local housing needs and mix. It would therefore conflict with ECS Policies CS17 and CS19. For similar reasons, it would also conflict with the aims of the Framework.

### **Other Matters**

25. The site lies within 5km of the Thames Basin Heaths Special Protection Area (SPA). The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. A financial contribution towards strategic access management and monitoring is required and an obligation has been provided. However, given that the appeal is being dismissed for other reasons, it is not necessary for me to consider this matter further and undertake an AA.

26. No harm has been identified in respect of the standard of the accommodation proposed, which would provide sufficient internal and external space for future occupiers. The absence of harm weighs neither for nor against the proposal.
27. No in principle objection to the construction of new residential dwellings has been raised by the Council. The proposed development would help to boost local housing stock and provide family-sized and energy-efficient homes. It would also provide benefits through the construction process and support for local services and facilities. However, given that the development only involves the creation of two net dwellings to the Council's housing stock, these social and economic benefits do not outweigh the identified harms.

### **Conclusion**

28. In light of the above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate that the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

*A Hickey*

INSPECTOR