

## Appeal Decisions

Site visit made on 19 September 2024

**by B Phillips BSc MSc MRTPI**

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

**Decision date: 11 OCTOBER 2024**

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**Appeal Ref: APP/P3610/W/24/3341342**

**Building to the rear of 11 Woodlands Road, Epsom, Surrey KT18 7HP**

- 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 Oakton Developments Ltd against the decision of Epsom and Ewell Borough Council.
  - The application Ref is 23/01184/FUL.
  - The development proposed is the change of use of the existing outbuilding for use as a holiday let.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). The Council and the appellant have referenced this document within their appeal statements and as such I am satisfied that no party would be prejudiced by my also making reference to the Framework in this decision.
3. The Council set out that the original approval<sup>1</sup> for the outbuilding was for ancillary accommodation located in the garden of No 11 Woodlands Road. However, the building is now separated from No 11 by fencing, and the appellant has confirmed that No 11 is now under separate ownership. As with any alteration requiring planning permission, it is for the Council to take appropriate enforcement action as they see fit, and I note the site history set out by the Council and third parties in this respect.
4. The proposal before me is for the change of use of the outbuilding into a holiday let. The plans clearly show that it would be separate from No 11. Notwithstanding its current use, this would formalise the separation of the unit from No 11, and result in an independent unit of accommodation. I have assessed the proposal on this basis.

### Main Issues

5. The main issues in this case are:

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<sup>1</sup> Application reference 16/01256/FUL

- the principle of development in relation to its existing use;
- the effect of the proposal on the character and appearance of the surrounding area;
- whether the proposal would be suitably located for tourist accommodation;
- whether the proposal would provide adequate living conditions for future occupiers, with respect to the provision of internal and outdoor space;
- the effect of the proposal on the surrounding road network; and
- whether the proposal would make acceptable provision for bin storage, bicycle parking and electric vehicle charging infrastructure.

## **Reasons**

### *Principle of development*

6. As set out above, the proposal would result in a separate, independent unit of (holiday let) accommodation. The lack of a separate use class for a holiday let does not prevent the proposal being sufficiently clear in this respect. Policy CS1 of the Core Strategy (2007) (CS) is a strategic policy relating to the general support of sustainable development goals. There is no specific mention of holiday lets, nor any requirement for a holiday let to be ancillary to a main property.
7. Moreover, neither this policy nor Policy DM33 of the Development Management Policies Document (2015) (DM), which relates to visitor accommodation, set out that details of how lettings would be managed, procedures in case of emergencies nor a record of visitors is necessary. Considerations of living conditions are set out below.
8. As such, the proposal would not, in principle, subject to other considerations, conflict with the sustainable development goals of CS Policy CS1 and the Framework.

### *Character and appearance*

9. DM Policy DM33 sets out that the occupation of new tourist accommodation will be restricted through the use of conditions. Nevertheless, the unit would have the ability to afford to those who used it the facilities required for day-to-day private domestic existence, even if its occupation is restricted by condition. It would therefore meet the definition set out in case law<sup>2</sup> of a dwelling house.
10. The proposal would therefore result in a separate and independent dwellinghouse. As such, its impact on the character and appearance of the surroundings must be considered in this context.
11. The building exists, and no extensions or external alterations are proposed. It sits facing a private part of Woodlands Road, a lengthy residential street which curves around to include open space fronting dwellings.

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<sup>2</sup> Gravesham BC v SSE and O'Brien [1983] JPL 306

12. A number of dwellings also face onto this secondary private road, and overall, the area is mixed in terms of dwelling size and form, with detached bungalows and two storey semi-detached dwellings evident.
13. There is a mixed surrounding architecture and dwelling sizes therefore. However, whilst there are some examples of backland development and there is variety in building lines, in general the dwellings are set back but face onto the highway, presenting an active frontage and contributing positively to the legible and spacious character of the built form and surroundings.
14. The proposed dwellinghouse would have a mostly blank side elevation facing the highway, save for two high level windows and a rooflight. The dwelling would be single storey and its brick and slate finish do not appear out of keeping with the mixed surrounding buildings. However, unlike any neighbouring property, it would retain the appearance of a small outbuilding.
15. An independent and separate residential unit in this form and location immediately next to the highway, with the lack of an obvious principal elevation facing it, would result in a prominent dwellinghouse with an uncomfortable and awkward relationship with its surroundings.
16. In addition, whilst there is a large variety in the form and size of dwellings in the vicinity, the proposal would result in a noticeably smaller plot and dwelling than the surrounding properties, which are mostly set back from the highway. It would sit very close to boundaries on three sides and would appear cramped within its plot and squeezed into the available space. This would erode the area's general sense of spaciousness. Consequently, the proposal would not reflect the form nor grain of existing development and would therefore harm the established legible, spacious character of the surroundings.
17. An independent unit of accommodation, even if it was restricted to a holiday let, would have a different impact on the character and appearance of the surroundings, as set out above, compared to the originally approved garden building.
18. I conclude that the development would harm the character and appearance of the surrounding area. Accordingly, the proposal conflicts with the requirements of DM Policies DM9 and DM10, which along with CS Policy CS5 require development to respect and make a positive contribution to the built environment, street scene and character of the area. These policies are in broad conformity with the Framework.

#### *Visitor accommodation*

19. DM Policy DM33 sets out the criteria where proposals for smaller scale tourist accommodation will be acceptable. It does not require such development to meet all its criteria. Part a) supports such development where it states, it '*is on a site within the existing built-up area of the Borough or within a specific site allocation or sites identified in the Local Plan for mixed-use development*'.
20. The proposal, located within a wider residential area and surrounded by built form, is within the built-up area of the borough. The policy sets out no

requirement for the demonstration of need, suitability nor standard of accommodation (which is considered separately below).

21. As such, the proposal would be suitably located for tourist accommodation, and would comply with the requirements of Policy DM33 in this regard. In this respect it would also not harm the sustainable development goals of CS Policy CS1.

#### *Living conditions*

22. DM Policy DM12 requires all housing development to provide adequate internal space and appropriate external space. This policy does not specifically reference holiday accommodation; however, as set out above, the unit would meet the definition set out in case law of a dwellinghouse, and as such, policies pertaining to dwellinghouses would be relevant for the proposal.
23. Nevertheless, the nature and pattern of usage of a holiday let would, in my view, be different to a dwelling in permanent long term residential use. Furthermore, as set out above, to restrict its use to a holiday let could reasonably be secured by a planning condition, as set out by DM Policy DM33.
24. Whilst falling short of the minimum internal floorspace requirements of the nationally described space standards therefore, the unit would provide a reasonably sized living and kitchen area, bathroom and bedroom, which are provided with adequate light and outlook.
25. A small but adequate outdoor garden area would also be provided. Whilst this could be restricted by the location of bin and cycle storage, the garden area would be private, usable, functional, easily accessible from the living area, receive sufficient sunlight and would be of a sufficient size to meet the needs of the likely number of occupiers.
26. I therefore conclude that given the nature of the proposal as a holiday let rather than permanent long term residential accommodation, the limited floorspace and garden size would not be harmful to the living conditions of future occupiers of the building, who would reside in it on a short-term holiday basis. There is therefore no conflict with DM Policy DM12 in respect of providing an appropriate level of amenity. I also find no conflict with the Framework with regard to providing a high standard of amenity for future users.

#### *Surrounding road network*

27. The Supplementary Planning Document (SPD) 'Parking Standards' (2015) sets out that 1-bedroom houses should provide at least 1 vehicle parking space per residential unit. It states that clear justification should be provided where the minimum level cannot be met on site. Whilst there is no reference to holiday accommodation, as set out above, the proposal represents a dwellinghouse.
28. DM Policy DM37 sets out that development, including conversions, will have to demonstrate that the new scheme provides an appropriate level of off street parking to avoid an unacceptable impact on on-street parking conditions. The

policy does not specifically require a parking survey or transport statement to be submitted.

29. The site would be nearby a convenience store, and a nearby bus stops offering regular service to Epsom town centre, and train stations within walking distance offer a genuine and convenient alternative choice of means of travel to future occupiers. The appeal site is therefore reasonably well connected. Accordingly, the intended future users of the holiday let would not necessarily be likely to have a high reliance on a private motor vehicle to access day to day services.
30. In addition, whilst only a snapshot in time, whilst this part of Woodlands Road has no off street parking opportunities, I observed that a number of spaces available on the street and nearby streets at the time of my visit. I acknowledge third party comments about this issue, however, there is no substantive evidence before me that on-street car parking within this area causes congestion within the surrounding roads or has resulted in safety issues to users of the highway, despite there being a number of dwellings nearby that do not have off street parking spaces. Accordingly, and in the absence of evidence to demonstrate otherwise, it is unlikely that on-street car parking in the area has reached saturation, or that which does exist results in highway safety issues.
31. Paragraph 115 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
32. As such, given the limited scale of the proposal and subsequent limited demand for parking, the lack of on street parking would not result in harm to the local road network and would not exacerbate any on-street parking pressures. It is noteworthy that the County Highways Officer does not object to the proposal in this respect.
33. As such, I find that it has been demonstrated that no off-street parking would avoid an unacceptable impact on on-street parking conditions and is appropriate in this location. As such, the proposal would not the surrounding road network, and would not conflict with the parking standards and prevention of traffic problems goals of DM Policies DM35, DM36 and DM37 and CS Policy CS16 and the advice set out in the Parking Standards SPD. There is also no conflict with the prevention of unacceptable impact to the road network goals and highway safety goals of the Framework.

*Bin and Cycle Storage and Electric Vehicle charging infrastructure.*

34. No details of cycle nor bin storage are provided. However, both could be accommodated in the garden space of the dwelling. Whilst this would compromise the existing space, there would remain sufficient space for an adequate provision of space for the proposed 1 bed holiday let unit.
35. Were I minded to allow the appeal therefore, a condition requiring suitable details of both bin and cycle storage would be appropriate.
36. DM Policy DM36 does not make specific reference to the provision of electric vehicle charging infrastructure, and I have not been pointed to any such

reference in the SPD Sustainable Design (2016). Notwithstanding this, given my findings above in relation to the lack of off street parking and access to facilities and services, the lack of such provision would not prevent the proposal from meeting the requirements of this policy in terms of the promotion of sustainable transport options. The proposal would also comply with CS Policy CS6 and the Sustainable Design SPD in terms of bin and recycling storage provision.

## **Other Matters**

37. Nearby to the appeal site lies Nos 6 and 7 Woodlands Road. These properties, a pair of semi-detached dwellings, are Grade II Listed. The listing description describes them as mid 19th Century dwellings, finished in weatherboard, with a brick stack with oversailing courses and flush framed sashes with glazing bars. They are listed due to their special architectural or historic interest.
38. The setting of these properties is made up of the surrounding mixed residential built form and open space opposite. Whilst glimpses of the roof of the building may be possible from the rear elevation of No 6, the proposed unit would form part of the mixed built form which provides the wider context of this asset.
39. Therefore, although it would be visible, it would have a broadly neutral impact on the setting of the asset. The proposal would be unlikely to affect the appreciation of this or any other listed buildings and structures and accordingly I find that their significance would be preserved, in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

## **Planning balance and conclusion**

40. There would be limited social and economic benefits associated with the occupation of the proposed dwelling. A single additional dwellinghouse would make little difference to the overall supply of housing. The proposal would provide an increase in local expenditure and subsequent benefit to the local economy, however, given the scale of development, such benefits would be limited. Similarly, the social and environmental benefits of the provision of visitor accommodation and the efficient use of the site would also be limited, given its scale.
41. The Framework seeks to ensure that development adds to the overall quality of the area and be sympathetic to local character. As such the conflict with DM Policies DM9 and DM10, in addition to CS Policy CS5 should be given significant weight in this appeal. The Framework supports the efficient use of land. Nevertheless, given the conflict identified above, the development would conflict with the development plan as a whole.
42. It is set out in the concurrent appeal referenced above that the Council is falling significantly short of the required housing land supply, set out by the appellant at 0.68 years. Therefore, having regard to Framework footnote 8, Framework paragraph 11d) applies.
43. As described above the benefits associated with 1 additional dwellinghouse would be limited even taking account of the objective of boosting

significantly the supply of housing in the Framework and the significant shortfall in the Council's land supply position.

44. Given the importance given to the protection of character and appearance and high quality design in the Framework, I give significant weight to this matter. Consequently, the adverse impacts set out above would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
45. 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