



Appeal Decision

Site visit made on 18 March 2025

by **Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11th April 2025

Appeal Ref: APP/P1940/W/24/3350225

Bel Air Toms Lane, Kings Langley WD4 8NH

- 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 Mr M Russell against the decision of Three Rivers District Council.
 - The application Ref is 24/0481/FUL.
 - The development proposed is the construction of two detached dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of two detached dwellings with associated access, parking and landscaping at Bel Air Toms Lane, Kings Langley WD4 8NH in accordance with the terms of the application, Ref 24/0481/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. I note the disagreement between the main parties as to whether the proposal is for open-market or self-build houses. Although I note the reference to the proposal being for market dwellings in the planning application form, the evidence before me as a whole suggests that the proposal is self-build dwellings. I have therefore considered the proposal as such.

Main Issue

3. The main issue is whether the proposal would be unacceptable without a monetary contribution towards the provision of affordable housing off-site.

Reasons

4. The proposal is for the erection of two self-build dwellings. Permission has previously been granted for one dwelling at the appeal site under appeal decision Ref: APP/P1940/W/22/3305196. The proposal would, therefore, provide a net increase of one new dwelling.
5. Policy CP4 of the Local Development Framework (the LDF) seeks to increase the provision of affordable homes in the district by, in part, requiring small sites to make monetary contributions towards off-site affordable housing. Under this policy the Council will consider the site circumstances and viability of the development.
6. In this case the appellant has not provided a contribution or any mechanism to secure such a contribution. I note that they consider that the development would not be viable with such a contribution, but no viability study has been provided.

7. Although the appellant has directed my attention to the appeal decision Ref: APP/P1940/W/22/3305196, it is clear that the Inspector in that case also found that the lack of a contribution would conflict with LDF Policy CP4.
8. Therefore, by way of not providing a contribution towards the provision of affordable housing, the proposal would conflict with LDF Policy CP4 as outlined above.

Other Matters

9. I note concerns as to the effect of the proposal on the Green Belt. However, the proposal comprises limited infilling in a village in compliance with Paragraph 154(e) of the National Planning Policy Framework (the Framework), the Council found similarly in this regard.

Planning Balance

10. There is no dispute that the Council is unable to demonstrate a five-year housing land supply, currently they can demonstrate 1.9 years, and that the Council's Housing Delivery Test shows delivery of below 75%. Therefore, Paragraph 11d of the Framework is relevant.
11. As set out above, the proposal would not contribute towards affordable housing and would, as such, conflict with LDF Policy CP4. The requirements set out under LDF Policy CP4 for the contribution towards affordable housing conflicts with the Framework, Paragraph 65, where it relates to non-major development. I nevertheless recognise the considerable evidence of a significant under provision and need for affordable housing within the plan area. I also note the appeal decisions raised by the Council for ostensibly similar cases where the Council's local need has outweighed national policy. Given the above, and whilst mindful of the material considerations that are the Framework and Written Ministerial Statement, I attach significant weight to this matter.
12. The provision of one new dwelling would make a contribution towards the above shortfall. The proposal would also lead to a small and time limited economic benefit during the construction phase, as well as some limited social and economic benefits resulting from future occupiers. Given the acute nature of the shortfall, these matters attract significant weight.
13. Taking everything into account, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits identified. As a result, the application of Paragraph 11d of the Framework indicates that permission should be granted. Therefore, in the circumstances of this appeal, the material considerations above justify making a decision other than in accordance with the development plan.

Conditions

14. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.

15. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
16. In the interests of surface water and flood risks a condition is necessary demonstrating drainage details and driveway gradients. A condition is also necessary to demonstrate that emergency vehicles can reach the two dwellings for the safety of future occupiers.
17. A pre-commencement condition is required for the submission of landscaping details to protect trees on site and character and appearance. As development could result in the loss of existing trees on site, it would need to be pre-commencement. It was not necessary to consult the appellant directly on this condition as they confirmed in their final comments that they were content with the Council's proposed conditions. In the interests of living conditions, character and appearance, details of boundary treatments also need to be secured through a condition. Also for the purposes of protecting living conditions, a condition requiring obscure glazing is necessary.
18. In the interests of sustainable development, and in accordance with local policies, a condition is necessary requiring the development be carried out in accordance with the submitted energy statement.
19. Given the location of the proposal within the Green Belt, in the interests of protecting its openness and purpose of including land within it, a condition is required to restrict permitted development rights for the two appeal dwellings.
20. As the proposal is for self-build dwellings, in order to ensure that they are built and occupied as such, I have attached the proposed condition controlling this.
21. Given the level of detail on the submitted plans, and that a condition is already imposed requiring the development to follow these plans, a condition seeking additional details of the external materials is unnecessary.

Conclusion

22. Therefore, for the reasons outlined above, I conclude that the appeal be allowed.

Samuel Watson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing No's: TRDC 001 (Location Plan), 010b, 010 A, 010a A, 510/20/PL10.00 and 510/20/PL10.01.
- 3) Prior to works above ground level, full details (in the form of scaled plans and written specifications) shall be submitted to and approved in writing by the Local Planning Authority to illustrate the following: (i) A gradient of the proposed access

driveway which is to be no greater than 1:10 and (ii), surface water drainage arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway or adjacent public footpath. The development shall thereafter be carried out in accordance with the approved details.

- 4) Prior to works above ground level, tracking details showing how emergency vehicles (fire tenders) can enter and leave the site in forward gear and the siting and design of any required hard surfacing to facilitate the above, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first occupation of the development and permanently maintained thereafter and always made available for use for turning by emergency vehicles.
- 5) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection during development. All hard landscaping works required by the approved scheme shall be carried out and completed prior to the first occupation of the development hereby permitted. All soft landscaping works required by the approved scheme shall be carried out before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner. If any existing tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (ie November to March inclusive).
- 6) Prior to first occupation of the dwellings hereby permitted, details indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to the first occupation and carried out in accordance with the approved details.
- 7) Prior to the first occupation of the dwellings hereby permitted, the windows on the first-floor north-west elevation of the southern dwelling (those serving an ensuite and communal bathroom) shall be fitted with obscured glazing. They shall only be opening above 1.7m from the finished floor level of the rooms they serve. The windows shall be permanently retained in that condition thereafter.
- 8) Prior to the first occupation of the dwellings, the energy saving measures outlined within the submitted supporting Energy Statement to achieve the requirements of Development Management Policy DM4 shall be implemented in full prior to the first occupation of the new dwelling and be permanently maintained thereafter.
- 9) Immediately following the implementation of this permission, notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other revoking and re-enacting that order with or without modification) no development within the following Classes of Schedule 2 of the Order shall take place at either of the dwelling hereby permitted.

Part 1

Class A - enlargement, improvement or other alteration to the dwelling

Class B - enlargement consisting of an addition to the roof.

- 10) The two dwellings hereby permitted shall be constructed as a self-build dwelling within the definition of self-build and custom build housing in the 2015 Act:
- i.) The first occupation of the dwellings hereby permitted shall be by a person or persons who had a primary input into the design and layout of the unit and who intends to live in the unit for at least 3 years;
 - ii.) The Council shall be notified of the persons who intend to take up first occupation of the dwellings in the development hereby permitted at least two months prior to first occupation.