Planning Inspectorate

Appeal Decision

Site visit made on 29 April 2025

by P Terceiro BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/P1940/W/24/3353416
10 Kindersley Way, Abbotts Langley WD5 0DQ

- 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 Daniel Wysmolinski against the decision of Three Rivers District Council.
- The application Ref is 24/0218/FUL.
- The development proposed is the demolition of existing double garage and construction of new detached dwelling. New cross over formed and car park spaces.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views, and the revised version has been taken into account in this decision.

Main Issues

3. The main issues are:

   - the effect of the proposed development on the character and appearance of the area; and

   - whether the proposal would make an appropriate provision for affordable housing.

Reasons

Character and appearance

4. 10 Kindersley Way (No 10) is a two-storey detached dwelling that lies within a spacious plot. The dwelling is set back from the road and, due to the rising land levels, it sits on an elevated position in relation to the road. The site’s front boundary treatment consists of hedging, located on either side of the existing vehicular access point.

5. Kindersley Way is largely characterised by two-storey detached and semi-detached dwellings of varying designs sited within wide and large plots. The building line meanders on the side of the road where the appeal site is located, and the dwellings are normally set back from the highway with gardens and

parking to the road frontages. Typically, the dwellings have gaps between their flank elevations which in some cases are only above ground floor level. These factors, together with the verges, create a pleasantly spacious character to the area around the appeal site.

6. The appeal scheme seeks to subdivide the plot, and the width of the new plot would fall on the lower end for plot widths within the area. While the frontage would not be so uncharacteristic of its surroundings, the plot would narrow in width towards the rear, markedly at odds with the prevailing pattern of development in the locale.

7. Due to its varied nature the streetscape is tolerable to new design. While the dwelling would occupy a relatively small percentage of the plot, given the limited plot width, the dwelling would be provided with very limited space to its side boundaries and, consequently, it would sit very close to the flank wall of No 10 and only slightly set in from the common boundary with No 12 Kindersley Way (No 12).

8. While there are instances where neighbouring dwellings have been extended up to their side boundaries at first floor level, such as in the case of Nos 4 and 6 Kindersley Way, these cases are limited and therefore not reflective of the prevailing character of the area. The proposal would fail to maintain an appropriate spacing at first floor level and, as such, it would appear uncomfortably cramped within the street scene.

9. The proposed dwelling would have a similar orientation as No 10 and would be sited at approximately the same distance from the road as No 10. Given this, it would project significantly beyond the front elevation of No 12 and disrupt the prevailing building line where the dwellings respond to the curvature of the road. The new dwelling would be taller than No 10 and, taken together with its siting, the proposal would appear dominant and incongruous in its receiving context.

10. Despite being set back from the road, due to the sloping nature of the site, the dwelling would be prominent within the street scene. While there would be scope to provide soft landscaping within the property's frontage, it is unlikely that planting would achieve a successful assimilation of such a large structure given its siting on higher ground than the road, even more so when considering the time it would take for planting to fully establish to soften the impact.

11. The proposal would have a harmful effect on the character and appearance of the area. It would be contrary to Policies CP1, CP3 and CP12 of the Core Strategy 2011 (CS) and to Policy DM1 and Appendix 2 of the Development Management Policies Local Development Document 2013. Amongst other things, these policies support development that protects and enhances the built environment, is of a high standard of design that has regard to local context and has a layout that maintains the character of the area in terms of plot size and gaps between buildings.

Affordable housing

12. CS Policy CP4 requires the provision of affordable housing of 45% for all new housing development. The policy sets out that on smaller sites of up to 9 dwellings, a commuted payment towards off-site provision would be acceptable in lieu of delivery on-site.

13. The need for the proposal to deliver a provision towards affordable housing in order to accord with CS Policy CP4 is not a matter of dispute. However, there is dispute with regard to the amount of such contribution, and subsequently, whether the provision of a commuted sum would render the scheme unviable.

14. The Council advises that the proposed development would result in a requirement for a commuted sum of £96,375 (including indexation) towards affordable housing. This amount is based on the gross habitable floor area in the new dwelling which amounts to 78m^2 multiplied by £750, which is the required amount in the "The Langley's and Croxley" market area. All these figures are not a matter of dispute.

15. The appellant's figures indicate that it would not be viable for any commuted sum to be made. The Council on the other hand considers that while the scheme is unable to support the full affordable housing payment of £96,375, it would be viable to provide an affordable housing payment of £52,678. The main areas of disagreement relate to the developers return, costs associated with the Community & Infrastructure Levy (CIL), and finance for development costs.

16. With regard to the developers return, the Planning Practice Guidance provides no advice with regard to assumptions in relation to development proposals. However, it does advise that for the purposes of plan-making, that an assumption of 15-20% of gross development value should be considered a suitable return. Having regard to the Framework, which states that viability assessments should reflect the recommended approach in national planning guidance, this would be a reasonable figure to consider as a starting point.

17. The appellant has considered a figure of 20%. While this would reflect the market risk associated with speculative development for a project of this scale and current fragile marketing conditions, the evidence indicates that there is a shortfall in housing delivery and housing prices in the area remain high, despite the falling trend. These factors would assist in mitigating the risk.

18. The Council has applied a rate of 17.5%, in line with similar recent viability appraisals in this area. The evidence before me does not indicate that the circumstances of this scheme, having regard to its nature, scale and location, would justify an expectation of a higher level of return. Therefore, a rate of 17.5% would be acceptable in this instance.

19. The appellant has allowed for a CIL contribution of £24,064, calculated based on a rate of £188 per m^2. However, the Council advises that the rate for 2024 is £179.29 per m^2 so the required CIL amount would be £22,949. In addition, there may also be a deduction for the existing buildings. On this basis, it appears that the appellant's calculations overestimated the value of the CIL contribution. Still, even if this is not the case, when applying a 17.5% profit means a contribution would likely still be necessary.

20. In respect of finance for development costs, the appellant considered a figure of 12.5%. While this differs from the standard 7.5% interest rate applied by the Council, the appellant has taken this figure as a mean rate from their market engagement exercise. In the absence of robust evidence to demonstrate otherwise, I am satisfied that the figure considered by the appellant is reasonable.

21. Drawing all the above together, the proposal would viably be able to provide a contribution to affordable housing. There is no mechanism before me to secure that

contribution. On this basis, the scheme would fail to make an appropriate provision for affordable housing. It would therefore be contrary to CP Policy CS4, which seeks to increase the provision of affordable homes in the District.

Other Matters

22. The proposed development includes alterations to the host dwelling, which the Council considers acceptable. Based on the information before me, I see no reason to disagree with the Council's view on this matter.

23. Reference is made to the provision of infill housing in the area. However, I have very limited details regarding such schemes, and therefore I cannot conclude that they represent a direct parallel to the appeal proposal. As such, I have determined the appeal on its own merits.

Planning Balance

24. It is common ground that the Council cannot demonstrate a five year supply of deliverable housing sites. I have been provided with an appeal decision[1], in which the Inspector noted that figure to be 1.9 years. I shall consider this figure for the purposes of this appeal. This engages paragraph 11 d) ii. of the Framework, which states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole

25. The proposal would meet the Framework's objectives of boosting the supply of housing and would deliver a net increase of one dwelling in a windfall site within an area with access to public transport. Future residents would contribute to the local economy and there would be some economic benefits accrued from the construction process. Taken together, these benefits would attract moderate weight in favour of the proposal.

26. The proposal would result in harm to the character and appearance of the area, in conflict with paragraph 130 of the Framework which supports development that is sympathetic to local character, including the surrounding built environment. I ascribe substantial weight to this harm. Furthermore, the scheme would fail to make appropriate provision for affordable housing in an area with a significant need for such.

27. Consequently, the adverse impacts of the proposal 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.

Conclusion

28. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR

[1] Appeal Ref: APP/P1940/W/24/3336692