



Appeal Decision

Site visit made on 8 July 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 July 2025

Appeal Ref: APP/K3605/W/25/3360681

Cherry Garth, Stokesheath Road, Oxshott, Leatherhead, Surrey KT22 0PS

- 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 First Phase Property Ltd against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/0859.
 - The development proposed is the demolition of existing dwelling and erection of 2 no. dwellings and new vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Modifications to the proposal were put forward as part of the appeal. These include the removal of the single storey side element on plot 2, as well as the addition of chimneys, windows and doors on the side elevation of this plot.
3. The Procedural Guide for Planning Appeals¹ is clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority (LPA), and on which interested people's views were sought.
4. Having regard to the principles established in *Wheatcroft*², and acknowledging the comments of the appellant in respect of the scale of the proposal, the changes, as shown on the amended plans, are nevertheless substantially different to what was considered by the LPA when it made its decision. Therefore, in the interests of fairness, this appeal must be determined based on the plans on which the LPA made its decision, and which have been subject to consultation. To do otherwise would unacceptably prejudice the interests of other parties who may not be fully aware that the appeal proposal would be different to that originally put forward. For this reason, I have determined the appeal using the plans that were considered by the LPA.
5. My attention is drawn to a previous appeal decision³ for the construction of two dwellings within the site. I have had regard to that decision only insofar as it is relevant to my assessment of the main issues in this case, but I have determined the appeal based on the evidence and the details of the proposal before me.

¹ Procedural Guide: Planning Appeals – England 2025

² *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

³ Appeal Ref: APP/K3605/W/24/3336413

6. The Council's second reason for refusal relates to insufficient information being provided to demonstrate that the proposal would not result in harm to protected species, in particular bats and great crested newts. Subsequently, the appellant has provided further evidence in a Supporting Ecological Statement to address the second reason for refusal of application 2024/0859. This demonstrates that the proposal would not have an adverse effect on these protected species, subject to conditions. The Council has confirmed that it no longer wishes to pursue this reason for refusal. I see no reason to disagree and, accordingly, I have not considered this matter any further.

Main Issue

7. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

8. Stokesheath Road is typically characterised by large, detached dwellings of individual design generally set back from the road and accommodated within spacious plots. The positions and orientations of the dwellings on the plots vary, and generally there is a substantial separation between buildings, in particular above ground floor level. Mature hedges and trees, which are visible within the frontages and around the houses, provide a leafy and attractive setting for the dwellings. This provides the area with a distinctive spacious and verdant character.
9. Cherry Garth is a large detached two-storey dwelling with significant gaps towards the neighbouring buildings. The plot is spacious, and the dwelling is set with a generous and leafy garden. Consequently, the appeal site makes a positive contribution to the character and appearance of the area.
10. The Design and Character Supplementary Planning Document 2012 (SPD) identifies the appeal site as within character area COS10 (The Crown Estate (Birds Hill Estate) and Bevendean). Some of the main attributes of this area identified in the SPD include the very large plots and mature landscaping. The SPD advises that new development should respect the grain, building line and plot coverage and have regard to the established spacing patterns in the streetscape.
11. The appeal scheme would subdivide the grounds of Cherry Garth, thereby resulting in two much narrower and smaller plots than others in the vicinity. In addition, within these limited plots, the proposed dwellings would extend close to their side boundaries, so there would be substantial bulk and massing of development across the width of the plots. Consequently, while the gap between plot 2 and Heckets would be generous, the sense of spaciousness between the new houses and the relationship with Warren Keep would be noticeably tighter when compared to the prevailing character of the area, and so the development would appear cramped.
12. The front boundary treatment would be retained. While it would obscure some views of the proposed dwellings, their bulk and the relationship between both plots and neighbouring properties, as well the extent of their grounds, would likely be perceived, including in glimpsed views through the accesses. Additionally, Plot 1 would feature a detached garage of a significant scale that would be much closer to the road than other buildings along the same side of the road as Cherry Garth. As such, the proposal would appear incongruous in its receiving context.

13. The proposal would be at a density that would not be dissimilar from that observed across the wider Crown Estate. Further, the appellant has identified examples of dwellings in the wider estate which have a similar bulk, scale and mass to the proposed dwellings or similar plots. However, these examples do not reflect the general character of the area where the appeal site is located and therefore would not justify the proposal before me.
14. My attention is drawn to an appeal decision at 16 Broomfield Ride⁴, for the erection of 2 detached two storey dwellings following demolition of the existing. The street scene provided shows that the dwellings would have single storey elements closest to both shared boundaries, which is not the case with the scheme before me. Further, the Inspector found that the size of plots and space between the proposed houses and the neighbouring dwellings would not appear significantly smaller than surrounding neighbouring plots, which are not my conclusions here. The development on 7 Princess Drive⁵ comprised the construction of two dwellings in a tandem arrangement, which is a different layout to that of the appeal scheme. Thus, these examples would be of limited consequence in my consideration of this appeal.
15. While the separation distances between the dwellings constructed at Foxholes, Stokesheath Road are noted, I do not have the full details of the circumstances that led this development being accepted, nor is it clear from the evidence whether the development at 8 Princess Drive has been accepted. Consequently, I cannot conclude that these examples represent a direct parallel to the appeal proposal. As such, I have determined the appeal in its own merits.
16. Therefore, the proposed development would have a harmful effect on the character and appearance of the area. It would be contrary to Policies CS10 and CS17 of the Elmbridge Core Strategy 2011 (CS) and to Policy DM2 of the Development Management Plan 2015 (DMP). Together, these policies support development of high-quality design that responds to the positive features of individual locations and takes account of the built environment, amongst other things.

Other Matters

17. The appellant suggests that the proposal would constitute the development of previously developed land (PDL). However, the definition of PDL as set out in the National Planning Policy Framework (the Framework) excludes land in built-up areas such as residential gardens and I have no specific evidence before me to conclude that the proposal would constitute PDL.

Planning Balance

18. The scheme would be acceptable in terms of development requirements including affordable housing, ecology and the effect on living conditions of the closest neighbours and future residents. However, these are neutral factors that neither weigh for or against the development.
19. The proposed development would result in harm to the character and appearance of the area for the reasons set out above. I ascribe substantial weight to this harm.

⁴ Appeal Ref: APP/K3605/W/23/3333534

⁵ Appeal Ref: APP/K3605/W/24/3349721

20. The evidence provided by the appellant sets out that the Council cannot demonstrate a 5-year supply of deliverable housing sites, and the figure is 3.81 years. This is not disputed by the Council. In such circumstances paragraph 11 d) ii of the Framework 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.
21. Benefits of the proposal include the provision of residential accommodation in an accessible location within the built-up area of Oxshott. The proposal would contribute to the housing stock within the Borough and would meet the Framework's objectives of boosting the supply of housing. Some economic benefits would be accrued during the period of construction and once the dwellings would be occupied. The dwellings would be energy efficient. However, given that the proposal would provide a net gain of one dwelling, these benefits would attract minor weight.
22. The Framework seeks to ensure that development is sympathetic to local character, including the built environment, and is visually attractive. Therefore, the conflict between the proposal and CS Policies CS10 and CS17 and DMP Policy DM2 should be given significant weight in this appeal.
23. Thus, 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

24. 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