



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: 30th July 2025

Appeal Ref: APP/K3605/W/25/3358867

8 Fairmile Park Copse, Cobham, Surrey KT11 2PQ

- 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 Flynn Bespoke Developments Ltd against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/3384.
 - The development proposed is the demolition of existing bungalow and construction of 2no. semi-detached and 3no. terraced houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposed development on:
 - the character and appearance of the area; and
 - biodiversity.

Reasons

3. The appeal site is a spacious plot that has a narrow frontage which widens towards the rear and accommodates a detached bungalow that is set-back from the road. There is a mature hedge and a tree on the front boundary of the site which provides the plot with a verdant appearance.
4. The site is located at the end of Fairmile Park Copse, a residential cul-de-sac, which predominantly comprises large, detached two-storey dwellings of varying designs. The dwellings, which are set in a linear arrangement, are normally accommodated in deep plots with frontage parking and soft landscaping.
5. The proposal comprises a pair of semi-detached dwellings at the front of the site, with a row of terraces to the back. This layout would introduce back-land development, which would appear markedly at odds with the prevailing pattern of frontage development in Fairmile Park Copse. Vehicular access to the row of terraces would be provided via a new driveway, which would run between the proposed pair of semis and the common boundary with 9 Fairmile Park Copse. Although public views towards the row of terraces would likely be limited, the access would be noticeable and provide a clear indication of development to the rear, at odds with the street scene.

6. The proposed plots would be smaller than others in the vicinity of the appeal site, and so the garden areas for each dwelling would also be shallower than what is typical of the area. While the scale, footprint and height of the proposed dwellings would not be dissimilar to nearby properties, and the materials would be appropriate, the proposal would substantially increase the amount of development within the site, thereby reducing its spaciousness. It would therefore result in an unduly intense form of development that would appear cramped and harm the prevailing character of the area.
7. Whilst pairs of semis are not typical of the street scene, units 1 and 2 would have the external appearance of a detached dwelling and would share a common frontage. However, this would not address the harm arising from the unsuitable layout and plot sizes as I have identified above.
8. The appellant has drawn my attention to other dwellings in the surrounding area. The approved developments at Copsem Manor, Greenways, 105 Fairmile Lane and 2 Fairmile Lane are located within areas with established back-land development, which is not the case with the proposal before me. The proposed schemes at 4 Fernhill, Tall Trees, Crow Gables Cottage and 16 Broomfield Ride comprise frontage development only, so they would not be comparable with the appeal scheme which also comprises back-land development. Limited details have been provided regarding the development at Belmont Court, so I am unable to draw any useful comparison between the proposal and this scheme. For these reasons, the examples provided would not justify the proposed development.
9. As such, the proposal 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 Policies DM2 and DM10 of the Development Management Plan 2015 (DMP). Together, these support development of high-quality design that responds to the positive features of individual locations and takes account of the built environment, and support housing development on garden land when the scheme as a whole has been well designed to respect the character of the area, amongst other things.

Biodiversity

10. CS Policy CS15 seeks to ensure that new development does not result in a net loss of biodiversity and where feasible contributes to a net gain through the incorporation of biodiversity features.
11. The proposal would result in an overall net loss of 2.3491 habitat units and in a net gain of 0.0391 in hedgerows. Whilst not the subject of mandatory biodiversity net gain, on account of the timing of the planning application, in order to compensate the identified net loss of habitat units, the appellant has confirmed that they would purchase 2.4 units of off-site credits from the Environment Bank, as there is no capacity to deliver these units on-site.
12. The Planning Practice Guidance advises that if the off-site gain is secured with a legal agreement by the landowner, the developer does not need to enter a legal agreement with the Council. While this is noted, I have no substantive evidence before me to demonstrate that an appropriate agreement has been secured with a third party to provide a net gain. As such, I am not satisfied that there is a mechanism to ensure that the required biodiversity units would be purchased.

13. The appellant suggests that a condition requiring the submission of evidence demonstrating the acquisition of the relevant biodiversity units could be imposed in the event of the appeal being allowed. However, I find that it would not be reasonable to cover such a fundamental matter by condition.
14. Given the above, there is insufficient evidence to demonstrate that the proposal would have an acceptable effect on biodiversity, contrary to the relevant provisions of CS Policy CS15 and of DMP Policy DM21. These policies seek to protect and enhance biodiversity, amongst other things.

Other Matter

15. The appeal site is located within the 5km buffer zone of the Thames Basin Heaths Special Protection Area, which is protected under the Conservation of Habitats and Species Regulations 2017 (as amended) (the regulations). In this regard, a unilateral undertaking seeking to secure a mitigation payment in relation to the requirements set out in the Thames Basin Heaths Avoidance Strategy has been submitted. However, Regulation 63(1) of the Regulations indicates that the requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposal. As the appeal is being dismissed on other grounds it is not necessary to consider this matter further.

Planning Balance

16. The scheme would be acceptable in terms of development requirements including trees, parking provision and the effect on living conditions of the closest neighbours. However, these are neutral factors that neither weigh for or against the development.
17. The proposed development would result in harm to the character and appearance of the area for the reasons set out above. Further, it has not been satisfactorily demonstrated that the proposal would enhance biodiversity. I ascribe substantial weight to this harm.
18. The latest evidence provided by the appellant refers to a recent appeal decision¹ where it was recorded that the Council cannot demonstrate a 5-year supply of deliverable housing sites, and the figure is 2.4 years. This is not disputed by the Council. In such circumstances paragraph 11 d) ii of the National Planning Policy Framework (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.
19. In terms of benefits, the proposal would meet the Framework's objectives of boosting the supply of housing and would provide residential accommodation of an appropriate mix of housing types for the local community. Some economic benefits would be accrued during the period of construction and once the dwelling is occupied. The proposal would also make more efficient use of the land and would logically reduce the pressure for development in the Green Belt and in Conservation Areas. The proposal would provide a net gain of four new dwellings, so these benefits would attract moderate weight in favour of the appeal scheme.

¹ Appeal Ref: APP/K3605/W/24/3348505

20. The Framework seeks to ensure that development is sympathetic to local character, including the built environment, is visually attractive, and provides net gains for biodiversity. Therefore, the conflict between the proposal and CS Policies CS10, CS17 and CS15 and with DMP Policies DM2, DM10 and DM21 should be given significant weight in this appeal.
21. 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

22. 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