



## Appeal Decision

Site visit made on 4 June 2019

**by Andrew Smith BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 June 2019

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**Appeal Ref: APP/P1940/W/19/3221363**

**The Swallows, Shirley Road, Abbots Langley**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr L Egan against the decision of Three Rivers District Council.
  - The application Ref 18/1719/FUL, dated 21 August 2018, was refused by notice dated 26 October 2018.
  - The development proposed is a single storey detached dwelling.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - the effect upon the character and appearance of the area; and
  - whether the proposed development makes an adequate contribution towards affordable housing.

### Reasons

#### *Character and appearance*

3. The appeal site is located in a residential area and is comprised of land situated to the rear of 25 Langley Road (No 25). No 25 is a large 2-storey property that makes up part of a distinct pattern of development along the western side of Langley Lane where properties are typically set on broadly consistent building lines and are served by similarly sized areas of garden laid out to their rears. Indeed, notwithstanding that the appeal site itself has been fenced off from No 25, this pattern of development is readily apparent when viewing the site from Shirley Road and alongside more informally laid out development that exists to the west of the site.
4. I accept that the proposed dwelling's front building line would closely align with built development on either side and that the use of appropriate materials could be secured via planning condition. Furthermore, I accept that the proposal, when compared to a previous proposal at the site that was dismissed at appeal<sup>1</sup>, has been significantly scaled down.

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<sup>1</sup> APP/P1940/W/17/3176813

5. However, a single storey dwelling would be introduced into an area that is largely typified by 2-storey residential accommodation. The proposal would disrupt a distinct pattern of development (as identified above) where properties located to the north and south of the site can be observed to be served by similarly sized and laid out garden areas. Whilst the extent of garden land proposed complies with the relevant standard as set out in Appendix 2 of the Development Management Policies Local Development Document (July 2013) (the DMPLDD), I must consider the acceptability of the proposal in character and appearance terms and in the context of its surroundings.
6. There was once, I understand, a garage positioned upon the site. Indeed, planning permission<sup>2</sup> was granted in June 2018 for its demolition and replacement with a double garage (which has yet to be constructed). The newly proposed dwelling would be similarly designed and scaled when compared to the replacement garage that has planning permission. The proposed footprint of the dwelling, in terms of its extent and position within the site, would also be closely comparable to that of the replacement garage.
7. I acknowledge that the appellant, when applying for planning permission under reference 18/0787/FUL, sought to sub-divide land to the rear of No 25 and that the current situation on the site is such that the appeal site is indeed fenced off to form a distinct and separate parcel of land.
8. The Council, when granting planning permission in June 2018, imposed a condition dictating that the replacement garage, once constructed, shall not be occupied other than for the storage of private motor vehicles and not as an independent dwelling or commercial premise. This condition applies whether sub-division has occurred or not.
9. The replacement garage would take the form and function of a subordinate building and would be experienced in the streetscene in this way, even where the appeal site is formed of an independent fenced-off parcel of land. Whilst I accept that the proposed dwelling has been designed to assimilate with the replacement garage in terms of its built form and visual appearance, it is still apparent that a door and windows would be added to its street-facing elevation so as to promote its appearance as living accommodation. Even should a proposed external window blind be omitted from the largest intended opening to this elevation, I would not come to a different finding.
10. Furthermore, the proposal would be expected to have fundamental implications for the way in which the appeal site would function. This is not least due to the associated demands that would be placed upon external areas of the site. Indeed, the proposed site layout indicates the provision of low planting, bin storage and a defined parking area to the Shirley Road frontage of the site. These are typical examples of the features and facilities that could realistically be expected to establish as symptoms of the appeal site being used as a separate unit of living accommodation. When compared to the prospect of the replacement garage being constructed, such features would alter the way in which the site would be read and experienced in its locality. The dimensions of the site are unduly tight when compared to neighbouring residential plots and this has led to an unsympathetic form of development being proposed. The development would appear contrived and at odds with the makeup of its surroundings.

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<sup>2</sup> 18/0787/FUL

11. For the above reasons, the development would cause harm to the character and appearance of the area. The proposal conflicts with Policies CP1, CP3 and CP12 of the Core Strategy (October 2011) (the CS) and with Policy DM1 and Appendix 2 of the DMPLDD in so far as these policies require that high quality residential development that respects the character of the District is promoted and that development will only be supported where it can be demonstrated that the proposal will not result in layouts unable to maintain the particular character of the area in the vicinity of the application site.

#### *Affordable housing*

12. Policy CP4 of the CS identifies a pressing need for affordable housing in the District and sets out that around 45% of new housing should be affordable and that all new development of one or more dwellings will be expected to contribute to the provision of affordable housing. The National Planning Policy Framework (February 2019) (the Framework) however states that provision of affordable housing should not be sought for residential developments that are not major developments. Policy CP4 is therefore not consistent with the Framework.
13. The Council has however provided robust evidence to demonstrate high affordable housing need locally and that affordability in the District continues to deteriorate. Indeed, needs analysis carried out by the Council highlights the importance of small sites in addressing shortfall and the lack of affordability that exists in the District. I apply substantial weight to this local evidence due to its recentness and the clear conclusions that can be drawn from it.
14. I am thus satisfied that a contribution of £29,700 in accordance with the Council's relevant commuted payment formula contained within its Affordable Housing Supplementary Planning Document (June 2011) would be an appropriate level of provision. The appellant has stated that they would be willing to enter into a legal agreement by way of a condition. A legal agreement cannot however be entered in to via condition and must be drafted and agreed before any planning permission is granted.
15. Furthermore, the National Planning Practice Guidance is clear that no payment of money can be positively required via condition when granting planning permission. The Guidance goes on to state that only in exceptional circumstances will a negatively worded condition, requiring an agreement to be entered into before the commencement of development, be appropriate (typically with respect to complex development proposals where otherwise delivery would be at serious risk), and I do not find those exceptional circumstances apply here.
16. In the absence of an appropriate mechanism to secure the contribution, I must conclude that the proposed development does not make an adequate contribution towards affordable housing. The proposal conflicts with Policy CP4 of the CS in so far as this policy requires that all new development of one or more dwellings will be expected to contribute to the provision of affordable housing.

#### **Other Matters**

17. The acceptability of the principle of housing development in the site's location is not disputed. I acknowledge that the proposal would deliver an additional one-bedroom housing unit (a type of housing that reflects the existing and

future needs of the District) and that the Framework reaffirms the Government's objective of significantly boosting the supply of homes.

18. Furthermore, I am satisfied that the proposed development would have an acceptable effect upon the living conditions of neighbouring and future occupiers, would not prejudice highway safety, would provide adequate refuse and recycling provision and would incorporate energy efficiency measures. However, the contribution of only one dwelling would be modest and would not outweigh the significant harm that would be caused to the character and appearance of the area and by virtue of the lack of an adequate contribution being made towards affordable housing.
19. The Council does not dispute that the proposal accords with the requirements of Policies CP2 and CP9 of the CS and with Policies DM4 and DM6 of the DMPLDD and I have no reason to consider otherwise. I have however found conflict with Policies CP1, CP3, CP4 and CP12 of the CS and with Policy DM1 and Appendix 2 of the DMPLDD. The proposed development therefore conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.
20. I do not have the details of the Council's 5-year housing land supply situation before me. However, even if the Council had a shortfall in supply, I consider that the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

### **Conclusion**

21. For the above reasons, the appeal is dismissed.

*Andrew Smith*

INSPECTOR