

## Appeal Decision

Site visit made on 5 September 2016

**by JP Roberts BSc(Hons), LLB(Hons), MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11<sup>th</sup> October 2016**

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**Appeal Ref: APP/Y3615/W/16/3152309**

**38 South Lane, Ash, Surrey GU12 6NG**

- 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 Sharaz Homes Ltd against the decision of Guildford Borough Council.
  - The application Ref 15/P/00391, dated 5 March 2015, was refused by notice dated 19 May 2016.
  - The development proposed is to demolish an existing bungalow, raise ground level and construct 1 No. detached houses (4 bed), 1 pair of semi-detached houses (2 x three bedroom) and a terrace of three houses (3 x three bedroom) and associated access, amenity and parking.
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### Decision

1. The appeal is allowed and planning permission is granted to demolish an existing bungalow, raise ground level and construct 1 No. detached houses (4 bed), 1 pair of semi-detached houses (2 x three bedroom) and a terrace of three houses (3 x three bedroom) and associated access, amenity and parking at 38 South Lane, Ash, Surrey GU12 6NG in accordance with the terms of the application, Ref 15/P/00391, dated 5 March 2015, subject to the conditions set out in the Annex to this decision.

### Application for costs

2. An application for costs was made by Sharaz Homes Ltd against Guildford Borough Council. This application is the subject of a separate Decision.

### Procedural matter

3. A planning obligation under Section 106 of the Town and Country Planning Act 1990 was submitted by the appellants, which makes provision for the payment of a sum of money to mitigate the effect of the proposal on the Thames Basin Heaths Special Protection Area (SPA). I shall refer to this in more detail below, but the Council has confirmed that the obligation overcomes the second reason for refusal concerning the effect of the proposal on the SPA.

### Main Issue

4. The main issue is therefore the effect of the proposal on the living conditions of the occupiers of 36 and 40 South Lane, with particular regard to noise and disturbance.
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## Reasons

5. It is proposed to demolish the existing bungalow which lies in a run of similar bungalows, and to construct 6 dwellings in the large rear garden which runs to the rear of the gardens of the neighbouring bungalows at 36 and 40 South Lane. The access would fill much of the width of the frontage plot, and would be within a few metres of the side elevations of the bungalows on either side, and only slightly further away from the nearest bedroom windows in the front elevations.
6. The junction of the access with South Lane would be further away from the bungalows, but I accept that the passage of cars close to the dwellings might be discernible to occupiers. However, the combination of the low frequency of movements, their short duration and the relatively low level of noise emitted by modern cars, would in my view, be unlikely to result in material harm to neighbouring occupiers' living conditions.
7. There would be a parking area to the rear of the garden of 40 South Lane, and again, there would be some potential for a small degree of disturbance from doors slamming and cars starting up and manoeuvring, but the likely low frequency and short duration of such events would not give rise to a significant degree of disturbance.
8. I recognise that refuse vehicles would be significantly more disturbing than cars, being both slower and noisier, but they would be likely to visit once a week, or even less. The Council claims that refuse vehicles would reverse into the site, but there is no need for them to do so, as the swept path diagram shows that there is sufficient space within the site in which to turn, and having regard to the length of the access road, I consider that it is likely that drivers of refuse vehicles would prefer to turn within the site. I therefore consider that refuse and other large vehicles would not result in material harm to neighbours' living conditions.
9. My views chime with that of the appeal Inspectors who dealt with previous appeals on the site<sup>1</sup> in 2014 for 7 dwellings and 6 dwellings respectively, neither of whom found harm arising from the access to the living conditions of neighbours. In respect of the 7 dwellings scheme, the Inspector found that there was insufficient evidence to support a refusal on the grounds of noise and disturbance and he noted that the Council did not object for this reason. Bearing in mind that that proposal was for a greater number of dwellings than is now sought, and that this proposal avoids siting bins near to the boundary of 40 South Lane as the previous proposal did, I consider that this scheme would have a lesser impact on neighbours than would the previous one which was found to be acceptable. The Council has not sought to distinguish this scheme from the other two cases, and this reinforces my view that the proposal would not result in material harm.
10. I therefore conclude on the main issue that the proposal would not result in material harm to the living conditions of the occupiers of 36 and 40 South Lane, with particular regard to noise and disturbance. Nor would it conflict with Saved Policy G1(3) of the Guildford Borough Local Plan (LP), which aims to protect the amenities of occupiers from noise, amongst other things.

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<sup>1</sup> Refs: APP/Y3615/A/14/2212092 and APP/Y3615/A/14/2216009

### **Other matters**

11. Local residents and the Parish Council have expressed numerous concerns about the proposal. In terms of principle, the Council accepts that it cannot demonstrate a 5 year supply of housing land, and that in these circumstances, policies relating to the supply of housing, including Policy RE4, which would otherwise restrict new residential development in a location such as this, are out of date. In such circumstances, as the site is a sustainable location to provide new housing, I see no overriding reason why in principle this site should not be developed, and this outweighs the conflict with Policy RE4.
12. The proposal would involve two-storey dwellings, whilst the South Lane frontage is occupied by bungalows. However, the houses would be located well to the rear of the bungalows and would the development would possess a character of its own, that would not be inconsistent with the wider mix of the area. The relationship between the bungalows and the houses would not be so close that the juxtaposition would appear incongruous.
13. In terms of design and layout, I recognise that the density would be higher than that of the South Lane plots, but this would not be obvious when seen from South Lane, and it would be in keeping with the residential areas adjoining the site to the rear. I find no harm from arising from the density proposed. The design is noted by the Council as being an improvement on previous proposals, and I consider that it would be satisfactory.
14. The access arrangements have been found by the highway authority to be satisfactory, and I see no reason to disagree. After particular scrutiny, Council officers concluded that the proposed development would not increase the risk of flooding to adjoining properties or result in unacceptable flood risk to the future occupants of the development, subject to the imposition of appropriate conditions. Whilst I understand local residents' concerns about the potential for an increased risk of flooding, there is no substantive evidence to lead me to conclude that the mitigatory measures proposed would not be satisfactory.
15. I have also had regard to concerns about privacy, wildlife and all other matters raised, but none of these is sufficient to alter my conclusions.

### **Conditions and obligation**

16. The Council has suggested a number of conditions which I have considered in the light of national guidance. A condition requiring compliance with the approved plans is needed to provide certainty. Details of materials and landscaping are needed in the interests of appearance. Conditions relating to visibility splays, the provision of parking and turning space and construction management are justified in the interests of highway safety. A restriction on hours of working is required to protect the living conditions of nearby residents. Details of drainage measures are required to minimise flood risk, whilst compliance with the appellants' ecological appraisal and related measures are needed to promote biodiversity.
17. The government's Written Ministerial Statement of 25 March 2015 sets out as policy that from the date of Royal Assent to the Deregulation Bill, local planning authorities will continue to be able to apply existing policies in their Local Plans in respect of energy performance which require compliance with standards that exceed the energy requirements of Building Regulations until commencement

of amendments to the Planning and Energy Act 2008 which is expected to happen in late 2016. I have not been referred to any local plan policy which relates to energy performance, and therefore I consider that the suggested condition which requires details of energy performance lacks sufficient justification, and that the energy requirements of the Building Regulations will suffice.

18. The Section 106 agreement would provide for the payment of £23,907.75 towards the improvement of an existing Suitable Area of Natural Greenspace and £4678.73 towards access management and monitoring, with a view to mitigating the additional recreational pressure placed on the SPA by residents of the proposed development. The contributions are sought in accordance with an adopted Thames Basin Heaths SPA Avoidance Strategy, and on the basis of the evidence before me, I am satisfied that the obligation passes the tests under the Community Infrastructure Levy Regulations 2010 and those set out in respect of obligations in the Framework.

### **Conclusion**

19. For the reasons given above, I conclude that the appeal should be succeed.

*JP Roberts*

INSPECTOR

## **ANNEX**

- 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 the following approved plans: L.01, P.06 and LP.1931 received on 06/03/2015; B.01 Rev A, P.07 Rev C, P.03 Rev B, P.04 Rev A, P.05 Rev B and P02 Rev B received on 17/04/2015, 17145-01 Rev E received on 14/10/2015 and P.01 Rev D and P.08 received on 01/12/2015.
- 3) No development shall take place until details and samples of the proposed external facing and roofing materials including colour and finish have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
- 4) Prior to the first occupation of the development hereby approved, full details of both hard and soft landscape proposals, including a schedule of landscape maintenance for a minimum period of 10 years, have been submitted to and approved in writing by the local planning authority. The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented prior to the occupation of the development hereby approved and retained.
- 5) All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting sooner with others of similar size, species and number, unless otherwise agreed in writing by the local planning authority.
- 6) Prior to the first occupation of the development hereby approved, the proposed vehicular access to South Lane shall be constructed and provided with visibility zones in accordance with the approved plans, Drawing No. P.07 Rev C, and thereafter the visibility zones shall be permanently kept clear of any obstruction above 0.6m.
- 7) No dwelling hereby approved shall be occupied until space has been laid out within the site in accordance with drawing no. P.07 Rev C for 12 cars to be parked and for the loading and unloading of vehicles /turning areas to enable vehicles to enter and leave the site in forward gear. The parking and turning areas shall be permanently retained exclusively for their designated purpose.
- 8) No development including any works of demolition or preparation works prior to building operations shall take place on site until a Construction Transport Management Plan has been submitted to, and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period and shall include:
  - (a) parking for vehicles of site personnel, operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials

- (d) provision of boundary hoarding behind any visibility zones
- 9) Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations, shall not take place other than between the hours of 0800 and 1800 Mondays to Fridays and between 0800 am and 13.30 pm Saturdays and at no time on Sundays or Bank or National Holidays.
- 10) No development shall take place until a scheme for the provision of surface water drainage of the site (including surface water from the access/driveway) has been submitted to and approved in writing by the local planning authority. The scheme shall include measures to prevent the discharge of water onto the public highway and shall incorporate sustainable drainage details (SuDS), and proposals for future maintenance for the lifetime of the development. The scheme shall also incorporate an access road design that ensures safe access and exit in the event of a flood in accordance with the requirements of the DEFRA/Environment Agency "Flood Risk Assessment Guidance for New Development" Technical Report FD2320/TR2. Finished floor levels of habitable buildings shall be no lower than 74.30m AOD. The development shall not be brought into first occupation until the approved surface water drainage has been constructed in accordance with the approved scheme.
- 11) The development hereby approved shall be carried out in accordance with the Precautionary Method of Works Statement (Appendix E) of the submitted Ecological Appraisal dated 06/01/2016, amended 20/01/2016. The stream buffer zone shall be a minimum of 3 metres in width, and the existing log pile shall be retained with a link to the stream.