



Appeal Decision

Site visit made on 15 October 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 December 2019

Appeal Ref: APP/A3655/W/19/3233027

Binkot, Englefield Road, Knaphill, Woking GU21 2EB

- 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 Thamesway Developments against the decision of Woking Borough Council.
 - The application Ref PLAN/2019/0276, dated 14 March 2019, was refused by notice dated 10 June 2019.
 - The development proposed is described as: 'The construction of four new two storey family dwellings on a vacant site'.
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Decision

1. The appeal is allowed, and planning permission is granted for development described as '*The construction of four new two storey family dwellings on a vacant site*' at Binkot, Englefield Road, Knaphill, Woking GU21 2EB in accordance with the terms of the application, Ref PLAN/2019/0276, dated 14 March 2019, subject to the conditions listed in the attached schedule.

Application for costs

2. An application for costs was made by Thamesway Developments against Woking Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. For clarity, I have inserted 'Woking' in to the address in the banner heading as it is listed on the appeal form.
4. Whilst not cited on the Council's decision notice, the Council have provided a copy of Policy CS8 of the Woking Core Strategy 2012 (CS) with the Questionnaire. I will therefore, not prejudice any party in taking this policy into consideration during the determination of this appeal.
5. It is common ground between the main parties that the principle of development is acceptable. However, in the appellant's submission, it is indicated that the Council have a chronic shortage of homes. The Council have confirmed that it has an overall housing land supply of 9.2 years in the next five-year period, taking into account the yearly housing requirement, a 5% buffer and historic undersupply since 2006. This is not disputed by the appellant. I have dealt with the appeal on this basis.

Main Issues

6. The main issues of this appeal are:
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and,

- the effect of the proposed development on the Thames Basin Heaths Special Protection Area (TBHSPA).

Reasons

Character and appearance

7. The appeal site comprises a vacant plot of land on the northern side of Englefield Road in a highly sustainable location, very close to a large number of shops, services and public transport. The site faces a public car park located off Englefield Road and backs onto a 3no. storey residential development at No 20 High Street. When viewing the site from the front, a single storey Co-op store is located to the left of the site and a single storey bungalow is located to the right. The surface of the site comprises hardcore with some vegetation present and the boundary treatment surrounding the site consists of various forms of closed boarded timber fencing and a section of palisade style security fencing on the shared boundary with the Co-op store.
8. An appeal Decision¹ (the previous Decision) has been brought to my attention by both main parties that was for the construction of 4no. 3-storey dwellings on the same site, which is subject of this appeal. The scheme subject of this appeal now seeks to erect 4no. 2-storey dwellings. Nevertheless, due to the similarities between the previous Decision and the case before me, I consider the previous Decision to be a material consideration in the determination of this appeal. Although, I note that matters relating to living conditions and parking arrangements are no longer in dispute between the main parties.
9. I find that there have been notable changes made to the proposed development, since the determination of the previous scheme, such as an overall reduction in height, changes to the external appearance of the proposal resulting in a 2-storey terrace that has bedrooms located in the roof of 3no. houses, excluding the proposed end unit adjacent to the bungalow, where a hipped roof is proposed. I also note that the end gable facing the Co-op store has been altered to a more regular shape, than previously proposed, amongst other things. I have noted that many of the positive features in the previous scheme have been incorporated in the scheme before me, such as a consistent and coherent design that would respect the building line on the northern side of Englefield Road.
10. On balance, I consider that the appellant has produced a scheme that has overcome the concerns raised by the previous Inspector. The proposed massing and more regular form and appearance of the proposed development would ensure that the dwellings would integrate into their surroundings, relating well to them and the overall context of the site. Additionally, the vertical emphasis that was present in the previous scheme has been significantly reduced through such features as the proposed lower eaves height and an overall increase in the roof slopes, especially on the front elevation.
11. I note reference to an appeal decision² for the residential development to the rear of the site at No 20. I acknowledge that whilst this development is 3-storeys in height, the second floor is recessed breaking up its horizontal and vertical building lines. Nevertheless, I find that when viewing the site from the

¹ APP/A3655/W/18/3202232

² APP/A3655/A/14/2228214

car park, No 20 provides a notable back drop of development that would visually absorb the proposed development from views within the car park.

12. Paragraph 131 of the National Planning Policy Framework (the Framework) encourages innovative designs which promote high levels of sustainability and help to raise the standard of design more generally in an area, this is "so long as they fit in with the overall form and layout of their surroundings". I find that the proposed contemporary styled development accords with this requirement. Overall, the proposed development would positively contribute to the built environment surrounding the site.
13. For the reasons given above, I therefore conclude that the proposed development would not harm the character and appearance of the appeal site and surrounding area. Therefore, the proposed development complies with the design, character and appearance aims of CS Policies CS21 and CS24, the guidance contained within the Council's Design Supplementary Planning Document 2015 and the Framework.

Thames Basin Heaths Special Protection Area

14. The appeal site lies within a buffer zone, between 400 metres and 5 kilometres of the TBHSPA. The TBHSPA has been identified for its importance as habitat supporting breeding populations of three protected bird species: the Dartford Warbler; the Woodlark and the Nightjar. The proposed development is not directly connected with or necessary for the management of the TBHSPA.
15. CS Policy 8 and saved Policy NMR6 of the South East Plan 2009 (SEP) requires new residential development to make an appropriate contribution towards the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM) to mitigate impacts. From the evidence before me, within the buffer zone visitor pressure resulting from new housing development, such as in the case before me, is likely to have significant effects (either alone or in combination with other schemes) on the TBHSPA unless it is properly mitigated. Developers are therefore required to contribute towards such mitigation.
16. The Council has produced an avoidance strategy³ which draws upon advice provided by Natural England and provides guidance on the mitigation of the impacts of residential development on the TBHSPA. The mitigation approaches are:
 - The provision and maintenance of SANG to attract people away from the TBHSPA;
 - SAMM to monitor and manage the impact of people using the TBHSPA; and,
 - Habitat management of the TBHSPA to improve the habitats of the protected birds.
17. This strategy sets tariffs for residential development to contribute to SAMM and SANG mitigation measures and how they would be collected through the Community Infrastructure Levy (CIL) and other mechanisms, such as Planning Obligations / Unilateral Undertakings (UUs).

³ Thames Basin Heaths Special Protection Area Avoidance Strategy 2010 - 2015

18. As part of my Appropriate Assessment (AA) it is necessary to ascertain the implications for the site and what any potential effects could be. Further to Regulation 63(3) of the Habitats Regulations 2017, I have consulted⁴ Natural England (NE) as part of this AA and had regard to their comments⁵ in relation to this matter. NE have confirmed that they have no objection to the proposed development providing compliance with the requirements of the Council's avoidance strategy for the TBHSPA, securing contributions to SANG and SAMM. Furthermore, NE have confirmed that they are satisfied that the proposed development would avoid and mitigate impacts to the European site. Both main parties were given the opportunity to comment on NEs response.
19. In the particular instances of this scheme, a total CIL contribution of £71,700.58 would be payable for the proposed development, which would involve the SANG and landowner payments as set out in the avoidance strategy. Additionally, in respect of SAMM, a signed and dated UU for £3455.00 has been provided by the appellant with their submission. The Council considers that the terms of the UU are acceptable with reference to the avoidance strategy.
20. I have considered the UU against the tests contained in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and paragraph 56 of the Framework. The 3 tests in CIL Regulation 122 and paragraph 56 of the Framework are that obligations are necessary, directly related to the development, and fairly and reasonably related in scale and kind. I have found that visits generated by one additional dwelling would be highly likely to have an impact on the TBHSPA. Consequently, I am satisfied that the submitted UU would satisfy these tests and meet the requirements of Regulation 122 of the CIL Regulations. Additionally, as in the case before me, paragraph 54 of the Framework states that obligations should only be used where it is not possible to address unacceptable impacts through a condition.
21. For the reasons given above, I am therefore satisfied that the proposed contributions would be sufficient to mitigate any adverse effects on the TBHSPA and in this instance would be both necessary and legitimate. Therefore, the proposed development would not conflict with the environmental protection aims concerning the TBHSPA in CS Policy CS8, saved SEP Policy NRM6 and the Framework.

Conditions

22. The Council has suggested conditions which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within paragraph 55 of the Framework and the Planning Practice Guidance (PPG). Conditions regarding time limits are required by statute.
23. In addition to a condition relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. Pre-commencement conditions concerning the materials to be used in the construction of the proposed development, including hard and soft landscaping would be necessary to protect the character and appearance of the area.

⁴ By email dated 14 November 2019

⁵ Natural England Response 300936 by email dated 3 December 2019

24. Conditions are necessary for the access and parking areas in the interest of highway safety. A pre-commencement condition concerning a Construction Method Statement would be necessary to protect the health and safety of construction workers, the living conditions of existing nearby occupiers and in the interests of highway safety.
25. A condition is necessary in relation to contamination to ensure satisfactory living conditions of future occupiers. I note the comments from the appellant on this matter, but it is precautionary and would only be activated in the event that contamination is found prior to, or during construction. I therefore find it relevant and reasonable in all other aspects of the proposed development.
26. A condition is necessary for the proposed development to be constructed fully in accordance with the Preliminary Ecological Appraisal Report in the interest of the natural environment. A pre-commencement condition concerning surface water drainage would be necessary to protect the living conditions of future / existing occupiers and land. I note the comments from the appellant regarding this condition. However, based on the details before me and given the importance of the issue, I find that it is necessary to be in the form of a pre-commencement condition to ensure that it is effective and complies with the requirements of paragraph 54 of the Framework.
27. The Council have suggested the removal of permitted development rights for extensions, other alterations to the roof, porches, garages/outbuildings and hard surfaces. In this regard paragraph 55 of the Framework says planning conditions should be kept to a minimum and only be imposed where, amongst other matters, they are necessary and reasonable. Planning Practice Guidance (PPG) paragraph 004 sets out the 6 tests for conditions. They must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects.
28. PPG paragraph 017 advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Area-wide or blanket removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness. Furthermore, the PPG is clear that the 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.
29. Therefore, for the reasons given above and in the light of national policy and guidance regarding imposition of conditions restricting the future use of permitted development rights and no substantive evidence to the contrary, I consider there are no exceptional circumstances (as required by PPG 017) to justify a condition removing permitted development rights at the appeal site.
30. Finally, conditions concerning evidence that the appeal development would achieve standards contained in the Building Regulations would not be necessary, relevant to planning or reasonable.

Other Matters

31. The provision of what is likely to be family homes would generate additional social benefits. In addition, there would be economic benefits for the locality, both during construction and occupation of the dwellings. I have considered

this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

Conclusion

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

W Johnson

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

PL-ST-005 Rev A Site Location Plan; PL-GA-210 Rev C Site Layout Plan As Proposed; PL-GA-300 Rev A Site Plan As Existing; PL-GA-310 Rev A Street Elevation General Arrangement As Existing; PL-GA-650 Rev F Ground Floor Plan General Arrangement As Proposed; PL-GA-655 Rev F First Floor Plan General Arrangement As Proposed; PL-GA-660 Rev C Second Floor Plan General Arrangement As Proposed; PL-GA-665 Rev C Roof Plan; PL-GA-800 Rev C Flat Elevations General Arrangement As Proposed; PL-GA-810 Rev B Street Elevation General Arrangement As Proposed; PL-GA-820 Rev D East Elevation General Arrangement As Proposed and PL-GA-825 Rev C West Elevation General Arrangement As Proposed.

3) Prior to the commencement of the development, details and/or samples and a written specification of the materials to be used in the external elevations, hard surfaced areas and boundary treatments shall be submitted to and approved in writing by the Local planning Authority. The development shall be carried out and thereafter retained in accordance with the approved plans.

4) Prior to the commencement of the development, full details of both hard and soft landscape works, including surface material for parking areas and boundary treatments, have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

5) The development hereby approved shall not be first occupied unless and until the proposed vehicular accesses to Englefield Road have been constructed in accordance with the approved plans and thereafter shall be kept permanently maintained.

6) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked. Thereafter the parking areas shall be retained and maintained for their designated purposes.

7) Prior to the commencement of the development, a Construction Transport Management Plan, shall first be submitted to and approved in writing by the Local Planning Authority, including the following details:

- (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) measures to prevent the deposit of materials on the highway

The proposed development shall then be constructed fully in accordance with the approved details.

8) If, prior to or during development, ground contamination is suspected or manifests itself then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted an appropriate remediation strategy to the Local Planning Authority and the written approval of the Local Planning Authority has been received. The strategy should detail how the contamination shall be managed. The remediation strategy shall be implemented in accordance with such details as may be approved and a remediation validation report shall be required to be submitted to Local Planning Authority to demonstrate the agreed strategy has been complied with.

9) The development hereby permitted shall be constructed fully in accordance with the requirements as specified in section 7 of the submitted Preliminary Ecological Appraisal Report by Brindle and Green, dated September 2017.

10) Prior to the commencement of the development, a surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme should demonstrate the surface water run-off generated up to and including the 1 in 100 plus climate change critical storm will not exceed the run-off from the existing site following the corresponding rainfall event.

The drainage scheme details to be submitted for approval shall also include:

- i. Calculations demonstrating no increase in surface water runoff rates and volumes discharged from the site compared to the existing scenario up to the 1 in 100 plus climate change storm event.
- ii. Calculations demonstrating no on site flooding up to the 1 in 30 storm event and any flooding between the 1 in 30 and 1 in 100 plus climate change storm event will be safely stored on site ensuring no overland flow routes.
- iii. Detail drainage plans showing where surface water will be accommodated on site.
- iv. A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The surface water drainage scheme shall be implemented in accordance with the approved details prior to the first occupation of the development hereby permitted

and thereafter it shall be managed and maintained in accordance with the approved details for the life of the development.

End of Schedule