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# Appeal Decision

Site visit made on 23 January 2020

**by S Leonard BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 March 2020**

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**Appeal Ref: APP/R3650/W/19/3238813**

**Backward Point, Cranleigh Road, Ewhurst, Cranleigh GU6 7RJ**

- 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 Jon Neville (Millwood Designer Homes) against the decision of Waverley Borough Council.
  - The application Ref WA/2019/0106, dated 20 December 2018, was refused by notice dated 27 June 2019.
  - The development proposed is demolition of existing Backward Point House, development of 9no. one, two and three bedroom dwellings, (including 3no. affordable dwellings), garaging, new access and landscaping.
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## Decision

1. The appeal is allowed and planning permission is granted for demolition of existing Backward Point House, development of 9no. one, two and three bedroom dwellings, (including 3no. affordable dwellings), garaging, new access and landscaping at Backward Point, Cranleigh Road, Ewhurst, Cranleigh GU6 7RJ, in accordance with the terms of the application, Ref WA/2019/0106, dated 20 December 2018, subject to the conditions set out in the attached schedule.

## Procedural Matters

2. The site address on the banner heading above is taken from the application and appeal forms. It differs slightly from that on the decision notice, which refers to Cherry Tree Lane, the access road which serves the appeal site as well as the residential development under construction adjacent to the site. For the avoidance of doubt, this road is accessed via Cranleigh Road, and I use the address from the application and appeal forms.
3. A unilateral undertaking (UU), signed and dated 20 February 2020, was submitted by the appellant on 20 February 2020 to address the Council's second and third refusal reasons in respect of affordable housing provision and the maintenance of the sustainable drainage system (SuDS). I deal with this matter later on in the decision.

## Main Issue

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

## Reasons

5. The site lies to the north side of Cranleigh Road, and is set back from the road, and accessed via a shared access drive (Cherry Tree Lane) with the 32-dwelling development currently under construction to the north, west and south sides of the site. The site is occupied by a detached bungalow with hard surfacing to the front, and is being used as a site office and parking area in association with the adjacent construction site.
6. Although the site lies within countryside, it is close to the designated settlement boundary which lies to the east and south of the site, and the character of the area immediately surrounding it comprises built-up residential development. This includes the dwellings within the settlement boundary to the east of the site and in Cranleigh Road, and the new houses under construction to the north, west and south of the site. As such, the appeal scheme would comprise infill development within the existing built townscape, and would be perceived as being within the existing urban environment, rather than encroaching upon the wider countryside. As such, there would be no harm to intrinsic rural character.
7. There are a variety of dwelling designs and residential densities within the site vicinity, including two-storey detached and semi-detached houses in Cranleigh Road and bungalows in Gransden Close, which are generally set in larger plots than those of the two storey houses under construction. The appeal scheme would sit within the context of the new development, having regard to its set back position behind the frontage development in Cranleigh Road, its shared access with the new houses, and the treed public footpath linking Cranleigh Road to the recreation ground to the north, which separates the appeal site and the wider construction site from the lower density development to the east.
8. In respect of layout, units 1 – 5 would form a continuation of the built frontage on the north side of Cherry Tree Lane, providing visual interest at the site entrance, whilst retaining space adjacent to the neighbouring dwellings to the west. Although there would be some frontage parking, this would not be harmful to the street scene within the overall context of the development which includes frontage parking elsewhere. Soft landscaping areas to the front of the buildings and the retention of trees adjacent to the eastern boundary would soften the impact of the built development and provide space around the frontage buildings.
9. The layout of units 6 – 9 would be in keeping with that of the adjacent properties to the north, respecting their front and rear building lines, providing rear gardens of a similar depth, and extending the existing parking courtyard. The rear gardens of the frontage properties would provide a significant space between the front and rear built elements of the appeal scheme, and the extended parking area in front of units 6 - 9 means they would not appear cramped in relation to the approved dwellings to the west. The separate access to the rear dwellings through the approved scheme would also reinforce their integration with the rear part of the wider development. As such, the scheme would provide a spacious layout that integrates with that of the approved scheme under construction.
10. The visual integration of the appeal scheme with the wider development would be underlined by the scale, height, massing, detailed design and materials of the new dwellings which would be wholly in keeping with those of the wider

development under construction, more so than those of the existing bungalow to be replaced.

11. Whilst the density of development would be higher than that of the 32-unit scheme, at about 36dph compared to around 25.6dph, since the appeal scheme would be read as an integral part of the wider development, it is appropriate to consider the resulting overall development density. This would be about 27dph and is not excessively high in relation to current residential development densities, and having regard to the Framework support for making efficient use of previously developed land for housing. Also, it is not inappropriate for the higher density area of the overall development to be located near the centre of the scheme, where it is least visible in wider views towards the site and further away from the open countryside than the less dense development on the rural edge of the development.
12. For the above reasons, I conclude that the proposal would integrate successfully with the development currently under construction, and would not appear unduly cramped and crowded. It would not, therefore, harm the character and appearance of the area. As such, the development would accord with Policy TD1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 (WBLP) and Saved Policies D1 and D4 of the Waverley Borough Council Local Plan 2002. These policies, amongst other things, require new development to be of a high-quality design which integrates well with the site and complements its surroundings, protecting the visual character and distinctiveness of a locality. For similar reasons, the development accords with guidance in Chapter 12 of the Framework which requires high quality design.

## **Other Matters**

### *Planning Obligation*

13. The Council's decision notice includes second and third refusal reasons relating to the failure to make provision for on-site affordable housing, the requirement for which is set out in Policy AHN1 of the WBLP, and the failure to ensure that the risk of flooding across the site is minimised and that the proposal would not result in an increased risk of flooding elsewhere, in accordance with Policy CC4 of the WBLP.
14. These reasons for refusal have been addressed through the submission of a UU. This secures the on-site provision of three affordable dwellings comprising 1 x two-bedroom shared ownership house and 2 x one-bedroom affordable rent flats. It also secures the maintenance of the SuDS. The Council have confirmed that they are content with the detail and drafting of the completed UU dated 20 February 2020.
15. Notwithstanding the above, it is, however, necessary that I consider these obligations against the three tests set out in Paragraph 56 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. Planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to it.
16. Policy AHN1 of the WBLP requires a minimum of 30% affordable housing on housing developments in non-designated rural areas providing a net increase of 11 dwellings or more, and that this provision should reflect the evidence of

housing needs within the Council's Strategic Housing Market Assessment (SHMA). The development would result in a net increase of 8 dwellings on the site appeal site. However, due to its position in relation to the 32-dwelling scheme currently being constructed around the site, with which it will be integrated and share access, the proposal would form part of a larger development of 41 dwellings. On this basis, the requirement for affordable housing is justified in this instance.

17. In isolation, the scheme would provide a 37.5% affordable housing provision based upon the net gain of 8 units, and taken together with the affordable housing within the adjacent scheme, would result in an overall affordable housing provision of 29.2% across the wider scheme. The proposed tenure mix accords with the need for one and two bedroom affordable dwellings identified in the West Surrey SHMA and the Waverley Addendum to the SHMA. Therefore, on the evidence before me, the obligation would be necessary, directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligation therefore meets the relevant tests, and I have attached weight to this contribution in reaching my decision
18. WBLP Policy CC4 requires new development to ensure that the risk from flooding is minimised, whilst not increasing the risk of flooding elsewhere, and requires major developments to provide SuDS. Notwithstanding that the site lies within an area of low flood risk, having regard to the scheme forming part of the wider major scale residential development, as noted above, I find the requirement for SuDS to be justified. However, Paragraph 54 of the Framework advises that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. I consider that this matter can be dealt with by means of an appropriately worded planning condition which requires the implementation, and management and maintenance thereafter, of an approved SuDS scheme. Accordingly, I do not find that this part of the UU is necessary to make the development acceptable in planning terms.
19. I acknowledge the Parish Council and neighbour concerns about the adequacy of the access road and on-site parking provision. Notwithstanding that the access road is a private road, the highway authority has assessed the scheme in respect of traffic generation, access arrangements and parking provision, and has confirmed that there would be no severe impact on the safety and operation of the public highway. Furthermore, the Council has confirmed that the development off Cherry Lane Tree Lane would provide parking in accordance with the Council's adopted Parking Guidelines Document. The countryside access officer has raised no objection having regard to the public footpath which is accessed via the site access road, and there is no proposal to alter the access road from that previously approved. I do not disagree with the views expressed by consultees and am therefore satisfied that these matters have been satisfactorily addressed.
20. The Parish Council and neighbour concerns regarding the impact of the proposal on the living conditions of the occupiers of the neighbouring properties to the east of the site have been acknowledged. Subject to a planning condition to ensure that the first floor windows on the eastern side of dwelling 5 are appropriately glazed to prevent overlooking to Sixpenny Buckle, the design of the new dwellings, and the distances between them and the neighbouring

properties, are such that there would be no materially harmful impact on the privacy and light enjoyed by the neighbouring occupiers.

21. I have noted the Parish Council concerns about the potential impact on trees close to the eastern site boundary. Having regard to the Landscape Masterplan and Tree Protection Plan which accompanied the planning application, and the similar relationship of residential units in relation to trees which was accepted by the previous appeal Inspector in respect of the wider scheme<sup>1</sup>, I am satisfied that material harm would not arise in respect of tree impacts.
22. The neighbour comments about inadequate amenity space for the affordable dwellings have been noted. However, I find that the scheme would provide for a proportionate and satisfactory level of private outdoor amenity space for each affordable unit.
23. In response to the Parish Council and neighbour concerns that the number of new houses in Ewhurst has already exceeded its allocation, the allocation of 100 dwellings is a minimum figure, and the proposal would accord with the Framework aims of making effective use of previously developed land, and would make a positive contribution towards the Borough's wider housing needs.
24. In respect of the neighbour concerns regarding the demand for new infrastructure arising from the development, this matter is dealt with by means of the Council's Community Infrastructure Levy (CIL) requirements.
25. I have taken account of the neighbour concerns in respect of unreliable water and power supply and the name of the access track. These are not determining factors in the consideration of this appeal.

### **Conditions**

26. I have considered the Council's suggested conditions in accordance with Paragraph 55 of the Framework and the National Planning Practice Guidance and, where necessary, I have modified them, and added and deleted conditions. In addition to the standard implementation condition, it is necessary to define the plans for certainty (1, 2). In the interests of protecting the character and appearance of the area, a condition is necessary to ensure appropriate external facing materials in respect of the dwellings (3), the protection of trees worthy of retention (4), the provision of an appropriate landscaping scheme (5,6), the approval of the existing and proposed finished ground levels and the floor levels of the buildings (7), and the removal of specified permitted development rights in relation to extensions to the dwellings and new outbuildings (8). To ensure that the development does not increase flood risk on or off site, a condition is necessary to ensure the implementation and subsequent management and maintenance of a SuDS scheme (9).
27. In order to ensure a satisfactory level of privacy for the occupiers of neighbouring properties, conditions are necessary to ensure that some first floor windows of the new dwellings are obscurely glazed (10, 11). In the interests of protecting neighbouring living conditions and highway safety, conditions are necessary to ensure that construction of the development takes place at appropriate times, and is carried out in accordance with an approved Construction Method Statement (12, 13). A condition is required to ensure the

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<sup>1</sup> Ref APP/R3650/W/16/3150910

provision of adequate parking (14). In the interests of sustainable construction and to encourage future occupiers of the development to use low and ultra-low vehicles, conditions are necessary to ensure each dwelling meets water requirements per person per day and is provided with a fast charge socket (15, 16).

### **Conclusion**

28. For the above reasons, I conclude that the appeal should be allowed.

*S Leonard*

INSPECTOR

### **Schedule of Conditions**

- 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: P135/PL/1011(A); P334/EE/01; P334/PL/1000(A); P334/EX/1011; P334/PL/1001(B); P334/PL/1041(A); P334/PL/1045(A); P334/PL/1061; P334/PL/1065(A); P334/PL/2005 and P334/PL/5001.
- 3) No development shall take place above slab level until samples of all external facing materials in respect of the dwellings and the bin and cycle store have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved sample details.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The submitted details shall include the following:
  1. cross sections/details indicating the proposed finished ground levels, surface materials including sub-base and depth of construction and method/materials used for edging, within protected zones around retained trees;
  2. details of any services to be provided or repaired including drains and soakaways, on or to the site;
  3. space to be provided and clearly identified within the site or on other land controlled by the applicant to accommodate: parking of vehicles of site personnel, operatives and visitors; loading and unloading plant and materials; storage of plant and materials including demolition arisings; and cement mixing;
  4. details of earthworks including the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform; and
  5. scheme of supervision for the arboricultural protection measures, including details of a pre-commencement meeting between the retained arboricultural consultant, local planning authority tree officer and personnel responsible for the implementation of the approved development, and timings, frequency and methods of site visiting and an agreed reporting process to the local planning authority.

The scheme for the protection of the retained trees shall be carried out as approved.

- 5) No development shall take place above slab level until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) No development shall take place until cross sections/details indicating the existing and proposed finished ground levels and floor levels of the buildings shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in strict accordance with the approved details.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other Order revoking or re-enacting that Order with or without modification), no development as defined within Part 1 of Schedule 2, Classes A, B and E of that Order, shall be constructed on the site.
- 9) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii. include a timetable for its implementation; and,
  - iii. provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) Dwelling 5 hereby permitted shall not be occupied until the windows at first floor level on the east elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed, and once installed the obscured glazing shall be retained thereafter.

- 11) Dwellings 1-2 shall not be occupied until the windows at first floor level on the south west elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed, and once installed the obscured glazing shall be retained thereafter.
- 12) Construction works, including works of site clearance and ground preparation, and deliveries to and from the site, shall not take place other than between 0800 and 1800 hours Monday-Friday, 0800 and 1300 hours on Saturdays and at no time on Sundays or on Bank or Public holidays.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction; and
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 14) The parking spaces hereby permitted shall be provided before the development hereby permitted is first occupied, and shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.
- 15) Prior to the occupation of the dwellings, details shall be submitted to, and be approved in writing by the local planning authority, to confirm that the dwellings have been completed to meet the requirement of 110 litres of water per person per day.
- 16) The development hereby approved shall not be occupied until the proposed dwellings are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply), which shall thereafter be retained and maintained.

**\*\*\*End of Conditions\*\*\***