



Appeal Decision

Site visit made on 28 January and 25 February 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 May 2020

Appeal Ref: APP/D3640/W/19/3240411
84-100 Park Street, Camberley GU15 3NY

- 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 Ziyad Thomas (Renaissance Retirement) against the decision of Surrey Heath Borough Council.
 - The application Ref 18/0613, dated 9 July 2018, was refused by notice dated 7 May 2019.
 - The development proposed is the demolition of buildings on the site and the erection of 61 sheltered apartments with associated access, electric buggy/cycle store, refuse bin store, landscaping and 61 car parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of buildings on the site and the erection of 61 sheltered apartments with associated access, electric buggy/cycle store, refuse bin store, landscaping and 61 car parking spaces at 84-100 Park Street, Camberley GU15 3NY in accordance with the terms of the application, Ref 18/0613, dated 9 July 2018, subject to the following conditions on the attached schedule A at the end of this decision.

Application for Costs

2. An application for costs was made by Mr Ziyad Thomas (Renaissance Retirement) against the Surrey Heath Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. A Unilateral Undertaking (UU) dated 13 November 2019 contains obligations setting out contributions for affordable housing, Thames Basin Heaths Special Protection Area (TBHSPA) mitigation measures and an age limit of 55 on the future occupants of the proposed development. The Council has withdrawn its second and third reasons for refusal in light of the contribution obligations. Nevertheless, I shall comment upon these matters in the later part of my decision. After the site visit on 28 January 2020, a further site visit took place at 13 Firwood Drive to assess the proposal.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of the residential properties at 7-15 Firwood Drive, having regard to

outlook, privacy and light, and the future occupiers of the apartment development, having regard to amenity space provision.

Reasons

Living conditions

5. The appeal site comprises buildings of up to two storeys in height which are in commercial use. Car parking areas and smaller outbuildings are located to the rear. Behind the site, there are the gardens and dwellings of Firwood Drive. Towards the town centre, there is an adjacent three storey residential building recently converted from offices, at 82 Park Street (Marlborough House) and adjacent to the site in the other direction, a raised railway line. Opposite the site on Park Street, there is a recently constructed five to six storey building used as sheltered apartments at Stokes Lodge and beyond this to the north, lies a recently constructed five storey care home at Pembroke House.
6. The proposed apartment building would vary from five storeys, adjacent to No 82, to six storeys near to the railway line, and would reach a maximum main height of approximately 18m. The top two storeys would be recessed at the end of the building adjacent to No 82 whilst at the other end of the building towards the railway line, the top floor only would be recessed. At this corner, there would be a rearward angled projection. The building would have balconies at first floor and above.
7. The apartment building would back onto the garden and dwellings of 7 to 15 Firwood Drive. Between the building and the rear gardens of these properties, there would be car parking spaces, access areas and outdoor amenity spaces serving the new residents. Much of the common boundary between these properties and these areas is dominated by trees, including tall conifers, and vegetation.
8. Closest to the proposed development, there is a two storey dwelling at 13 Firwood Drive which has a rear single storey extension and conservatory, with garden beyond. The Council has indicated that the main part of the dwelling and its extension/conservatory would be approximately 35m and 32m respectively distant from the apartment building. The affected neighbour indicates the latter figure to be 30.8m. There is no guarantee that the existing screen would be retained, despite the best intentions of the appellant. There can be any number of reasons for landscaping to be lost, for instance, disease, weather or accidental damage.
9. However, even taking into account the neighbour's lesser figure, the separation distance would be significant. The mass and bulk of the proposed building would also be broken up by recesses, curvilinear balconies, varied material construction and the angled projection. In this regard, the nearest, angled part of the block in relation to No 13 would taper away due to its design, with the top floor stepped back. Materials would comprise brick, timber cladding and metal, especially for the top floor recessed elements of the building, which would result in an attractive contemporary design.
10. Neighbouring properties in Firwood Drive would have an even greater separation from the apartment building because they are sited further back from No 13. They also more directly face the main part of the building and not the rearward projecting part. For all these reasons, the building would not give

rise to a significant loss of outlook, having regard to overbearing and domineering considerations, even if the screening effect of the common boundary treatment were lost.

11. Turning to privacy considerations, the apartment building would have windows and balconies facing No 13. However, there would be significant physical separation and the rearward projection would have openings and balconies angled away, with the main part of the building sited further back from this. In relation to the other properties along Firwood Drive, both the dwellings and gardens would be sited an even greater distance back. For all these reasons, the apartment building would not give rise to significant overlooking of neighbouring residents.
12. Third parties have also objected to the loss of sunlight and ambient light to their properties. Using the Building Research Establishment (BRE) guide "Site Layout for Daylight and Sunlight – A Guide to Good Practice" 2011, it has been indicated that a 25° line of sight taken from 2m above ground level from No 13's rear conservatory would be exceeded. However, this does not prove in itself an adverse effect under the BRE guide, just that other tests should be carried out. In this regard, the appellant has carried out daylight Vertical Sky Component (VSC) and daylight distribution assessments which show BRE guide target criteria are met, even with reductions as a result of the development. These also show the 25° test, along with the VSC and distribution assessments, are satisfied in respect of the other dwellings at 9 and 11 Firwood Drive.
13. Notwithstanding this, the BRE guide indicates that the 25° test should be taken from a main window wall rather than an end window in a multi-glazed conservatory. This is supported by my site visit where I found that the conservatory had a good provision of natural lighting as a result of all-round glazing compared to more conventional rooms within constructed walls. In terms of sunlight, the appellant's annual probable sunlight hours and winter sun assessments show that windows and gardens of these properties receive adequate sunlight, even after taking into account boundary treatments. My site visit assessment also indicated that there would be significant separation distance between them and the development in relation to light matters. In conclusion, there would be no significant loss of ambient light and sunlight to the occupiers of the neighbouring properties for all these reasons.
14. In terms of outdoor space provision for future residents, the communal outdoor space area and some of the terraces/balconies would be less than that stipulated under the Surrey Heath Residential Design Guide Supplementary Planning Document (SPD) 2017. However, most of the proposed apartments, with just one exception, would benefit from a balcony or private terrace. All of the provided private outdoor spaces would receive sunlight at some time during the day and would be capable of providing private recreational space. The communal open space/terrace would be landscaped with tables and benches and would link up with a significant internal communal lounge space, appropriate for elderly persons accommodation. Accordingly, an exception to the guidance of the SPD is justified.
15. For all these reasons, the development would not harm the living conditions of nearby residents, having regard to outlook, privacy and light, and future residents, having regard to outdoor space provision. Accordingly, the proposal would comply with policy DM9 of the Surrey Heath Core Strategy and

Development Management Policies Document (CSDMP) 2011-2028 (2012). Similarly, there would be justification to depart from the advice of the SPD.

Other matters

16. The parking provision would be appropriate for this type of accommodation in a location given its proximity to a town centre and would be in accordance with County Council highway guidance. The appellant's Transport Statement (TS) shows that there would be a significant reduction of vehicle flows compared with the previous uses on the site. In accordance with policy, there would be closure of existing accesses, leaving just one access off Southwell Park Road.
17. The proposed access already serves other residential properties, including Firwood Court. However, the TS indicates that traffic flows would not be significant given the new accommodation would be for elderly persons. There is no detailed evidence to indicate that traffic flows and accessibility for emergency vehicles would be detrimentally impaired using this access and surrounding roads. Such a view coincides with the highway authority who have raised no objections to the proposal. There would be no harm from air pollution given the evidence indicates a significant reduction in vehicle flows compared to the previous uses on the site.
18. The Surrey County Council Lead Local Flood Authority raises no objections on drainage grounds subject to conditions. Based on the appellant's submitted strategy and detail, I am satisfied flooding concerns can be addressed by planning conditions. Any construction impacts on residents would be of a temporary nature and a Construction Management Plan could minimise the impacts of neighbouring residents during construction. No detailed evidence has been submitted to demonstrate that there would be an increased risk of crime associated with this development.

Obligations

20. The site lies within 5km of the Thames Basin Heaths SPA. The SPA holds important populations of three bird species that nest on or close to the ground, namely Dartford warbler, nightjar and woodlark. The Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (SPD) 2019 states urbanisation has potential for significant adverse effects to occur on the interest features of the SPA. Recreational pressure can result in disturbance adversely affecting bird nesting.
21. On this basis, the proposal would have a significant effect, either alone or combination with other developments, through its urbanising effect. The nature conservation objectives of the SPA include maintaining favourable conditions for the populations of these birds protected under Annex 1 of the Birds Directive. Excluding the consideration of any mitigation measures, it cannot be ascertained that the proposal would not adversely affect the integrity of the designated site.
22. There are reduction and avoidance measures set out in the SPD. In accordance with the SPD, the obligation sets out a contribution towards strategic access management and monitoring (SAMM) mitigation measures which will be paid prior to development commencing. The SAMM contribution will be used to employ wardens to patrol the SPA, for educating the public about the SPA and to monitor the on-going effectiveness of the SPD approach.

23. Under the SPD, the proposed development would be required to either provide a Suitable Alternative Natural Green Space (SANGS) on site or financial contribution towards a SANGS elsewhere. In this instance, a payment under the Council's Community Infrastructure Levy (CIL) Regulations 2010 (as amended) tariff can be made towards an existing SANGS. Here, the payment would be for the Shepherds Meadows SANGS and it would be ring-fenced for delivery, maintenance and management in perpetuity. The SANGS would be used in lieu of land within the SPA which would prevent harmful recreational damage or other adverse effects to its integrity.
24. The SPD's strategy and implementation has been drawn up in consultation from Natural England (NE), the government's advisor on nature conservation. NE has commented that, if the SAMM and SANGS measures are fully secured, contribution provided towards them by this proposal, that the integrity of the SPA would not be adversely affected. Given the status of the NE as a statutory ecological consultee on nature conservation, I place significant weight on their view.
25. The Thames Basin Heaths Joint Strategic Partnership Board comprises local authorities, NE and the County Council. A Strategic Delivery Framework for the avoidance and mitigation measures has been endorsed within the SPD. The SPD and the Council has confirmed works are being undertaken on SANGS provision and how the monies collected through CIL and the UU would be spent in respect of SANGS and SAMM. Taking all the evidence into account, I am satisfied that current proposal's monies would be spent on measures which would prevent adverse urbanising effects, including recreational pressure, taking account of other developments coming forward. Consequently, the proposal would comply with policy CP14B of the CSDMP and policy NRM6 of the South East Plan 2009. For all the above reasons, the statutory tests of the CIL regulations would be met and the integrity of the SPA would not be adversely affected.
27. The UU would also provide an affordable housing contribution. CSDMP Policy CP5 seeks a 40% on-site affordable housing provision for developments of this nature. CSDMP policies CP5 and CP6 also require viability evidence if such requirements cannot be met and policy CP5 states that a financial contribution in lieu of affordable housing can only be acceptable where on site provision is unachievable. The applicant's Affordable Housing Statement demonstrates that the special characteristics and nature of sheltered retirement housing is such that it is not practical or feasible to include affordable housing within the development. The Council's own viability consultants have agreed with a viability appraisal report which states that the proposed scheme would be unviable if affordable housing units were to be provided on the site. For the above reasons, the statutory tests of the CIL would be met and the proposal would comply with the above policies.
28. The obligation requirement to restrict occupation of the development's residents is necessary in light of the elderly persons nature of the accommodation. The layout and design would not be likely to meet the requirements of other types of residential accommodation and therefore, this obligation satisfies the relevant obligation tests within the National Planning Policy Framework.

Conditions

29. Suggested conditions have been considered in light of the advice contained in Planning Practice Guidance and party comments. Some have been amended, shortened and amalgamated in the interests of clarity and precision, taking into account the guidance.
30. For the avoidance of uncertainty and to allow for applications for minor material amendments, a condition is necessary specifying the approved drawings. In the interests of the character and appearance of the area, conditions are necessary setting out the requirements for external materials, fenestration, balcony/terraces, boundary treatments, landscaping and the protection of trees, including root protection. Conditions are necessary setting out the requirements for vehicle, electric buggies and bicycle parking, sustainable transport options information for residents, existing access closure and a Construction Management Plan in the interests of highway safety and sustainable transportation. In the interests of the living conditions of future occupiers, the implementation of approved noise mitigation measures is necessary.
31. To safeguard the privacy of residents of the adjacent building at No 82, a condition is necessary to obscure glaze flank windows of the proposed building. In the interests of ecology and biodiversity, conditions restricting external lighting and ensuring the recommendations of an ecological report are necessary. The Council's suggested condition on lighting was not considered precise and hence, a new condition setting out the implementation of approved details has been imposed. A condition is required to submit and approve a contamination assessment and implement any required measures. In the interests of preventing flooding, conditions requiring the implementation of drainage measures are necessary. In accordance with local plan policy, a condition is necessary to ensure electric vehicle charging points. Pre-commencement clauses have been imposed where the relevant matters are integral to the initial development construction.
32. The UU stipulates that no occupier should be less than 55 years old. The suggested planning condition stipulates that one or more of the occupiers shall be over 60 years old. The Council has raised no objections to the UU and the lower age limit would still ensure use of the building as sheltered accommodation. The condition would duplicate the requirements of the UU and therefore, it is not necessary for all these reasons.

Conclusion

33. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

- 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: 01 rev A, 010 rev A, 100 rev A, 101 rev A, 102 rev A, 103 rev A, 104 rev A, 105 rev A, 106 rev A, 201 rev A, 300 rev A and 200 rev A.
- 3) No development shall take place until details and samples of all external facing materials, surface and boundary materials 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) No development shall take place until external design features, shown on drawings of a scale not smaller than 1:5, have been submitted to and approved in writing by the local planning authority. Such features shall be windows, external doors, balcony edges and balustrading, railings, gates, fences, walls and street furniture. The drawings shall show materials, decorative/protective finish, cross sections, transoms, mullions, glazing bars, formation of openings including reveals, heads, sills. The development shall be carried out in accordance with the approved details.
- 5) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall also be carried out as approved and implemented prior to the first occupation of the permitted development.
- 6) Prior to the commencement of development, hereby permitted, a Stage 2 Noise Assessment in accordance with the recommendations of the Clarke Sanders Stage 1 Noise Assessment, is submitted to and approved in writing by the local planning authority. The Stage 2 Assessment must provide specific mitigation measures in respect of windows, ventilation and balconies/terraces in order to satisfy the internal and external noise guidelines within BS 8233:14. The development shall be implemented in accordance with the approved details which shall thereafter be retained.
- 7) 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 personnel, operatives and visitors;
 - ii) the loading and unloading of plant and materials;
 - iii) the storage of plant and materials used in constructing the development;
 - iv) measures to prevent the deposit of materials on the highway;
 - v) on-site turning for construction vehicles and
 - vi) the hours of construction.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) The building hereby permitted shall not be occupied until the windows on the north elevation, identified in red on drawing no. 201 Rev A, have been fitted with obscured glazing. Once installed the obscured glazing shall be retained thereafter.
- 9) The development hereby permitted shall only be carried out in accordance with the submitted Arboricultural Report and Tree Protection Plan prepared by Barrell Tree Consultancy dated 23rd July 2018 reference 17360-AA-AN. No development shall commence until photographs of the tree protection measures undertaken, in accordance with the report and plan, have been provided by the retained Consultant and forwarded to and approved by the Council's Arboricultural Officer. This should record all aspects of tree and ground protection measures having been implemented in accordance with the Arboricultural Report and Tree Protection Plan. The tree protection measures shall be retained until completion of all works hereby permitted.
- 10) The development hereby permitted shall be undertaken in accordance with the recommendations (Section 4) as detailed in the submitted 'Extended Phase 1 Habitat survey and Protected species surveys', author Abbas Ecology, dated December 2017.
- 11) No development above the building's damp proof course shall take place until details of all external lighting has been submitted to and approved in writing by the local planning authority. All external lighting shall be implemented in accordance with the approved details prior to first occupation of the development hereby permitted.
- 12) No trenches, pipe runs for services and drains shall be sited within the Root Protection Area as defined in British Standard 5837: 2012 "Trees in Relation to Design, Demolition and Construction" of any retained tree.
- 13) Development shall not begin until a scheme to deal with any contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The above scheme shall include:
 - (a) a contaminated land desk study and suggested site assessment methodology;
 - (b) a site investigation report based upon (a);
 - (c) a remediation action plan based upon (a) and (b);
 - (d) a "discovery strategy" dealing with unforeseen contamination discovered during construction;
 - (e) a "validation strategy" identifying measures to validate the works undertaken as a result of (c) and (d), and
 - (f) a verification report appended with substantiating evidence demonstrating the agreed remediation has been carried out.Once agreed, the development shall be carried out and completed wholly in accordance with such details, unless otherwise agreed in writing with the local planning authority.
- 14) No demolition, site clearance or building operations shall commence until tree and ground protection has been installed in accordance with British Standard 5837: 2012 "Trees in Relation to Design, Demolition and Construction" and as detailed within the submitted Arboricultural Report.

- Tree and ground protection to be installed and retained during the course of the development.
- 15) The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority. The required drainage details shall include:
- a) Confirmation that Thames Water has capacity and can accept the proposed discharge rates into their sewer;
 - b) Evidence that the proposed solution will effectively manage the 1 in 30 & 1 in 100 (+40%) allowance for climate change storm events, during all stages of the development (Pre, Post and during), associated discharge rates and storages volumes shall be provided using a Greenfield discharge rate of 2.7l/s (as per the SuDS pro-forma or otherwise as agreed by the Local Planning Authority);
 - c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.);
 - d) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational;
 - e) Details of drainage management responsibilities and maintenance regimes for the drainage system;
 - f) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected.
- 16) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the local planning authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).
- 17) 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 and electric buggies to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and kept available for their designated purposes.
- 18) The development hereby approved shall not be first occupied unless and until the existing eastern accesses from the site to Park Street has been permanently closed and any kerbs, verge, footway, fully reinstated.
- 19) The development hereby approved shall not be occupied unless and until at least 12 of the available parking spaces are provided with a fast charge socket (current minimum requirement: 7kw Mode 3 with Type 2

connector - 230 v AC 32 amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

- 20) The development hereby approved shall not be first occupied unless and until the following facilities have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority for: (a) The secure parking of at least 10 bicycles within the development site and (b) Information to be provided to residents regarding the availability of and whereabouts of local public transport, walking, cycling and car clubs.