



Appeal Decision

Site visit made on 18 May 2020

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 03 June 2020

Appeal Ref: APP/Y3615/W/19/3243825

Kings Yard, Burrows Lane, Shere, Guildford GU5 9QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Bakersgate Developments Limited against the decision of Guildford Borough Council.
 - The application Ref 19/P/01282, dated 19 July 2019, was approved on 4 December 2019 and planning permission was granted subject to conditions.
 - The development permitted is variation of condition 5 (hours of work) of planning permission 06/P/00548 approved on 25/04/2006, to ensure that the hours of work refer to the whole site and not to one specific unit, and condition 16 (approved plans) to allow the installation of dormer windows on Block 2, Block 3 and Block 4 (amended plan received 14 October 2019).
 - The condition in dispute is No 5 which states that: "The use hereby permitted shall not operate other than between the hours of 8am-5:30pm Mondays to Fridays (inclusive) and 9am-4:30pm Saturdays, and shall not operate at all on Sundays or Bank or National Holidays".
 - The reason given for the condition is: "To safeguard the residential amenities of neighbouring properties".
-

Decision

1. The appeal is allowed and the planning permission Ref 19/P/01282 for variation of condition 5 (hours of work) of planning permission 06/P/00548 approved on 25/04/2006, to ensure that the hours of work refer to the whole site and not to one specific unit, and condition 16 (approved plans) to allow the installation of dormer windows on Block 2, Block 3 and Block 4 (amended plan received 14 October 2019) at Kings Yard, Burrows Lane, Shere, Guildford GU5 9QE granted on 4 December 2019 by Guildford Borough Council, is varied by deleting condition No 5 and substituting for it the following condition:
 - 5) The use hereby permitted shall not operate other than between the hours of 0730 - 1900 on Mondays through to Fridays and 0900 - 1630 on Saturdays and shall not operate at all on Sundays or Bank or National Holidays. Deliveries in association with the permitted office and live/work use shall not take place other than between the hours of 0800 - 1800 on Mondays through to Fridays and 0900 - 1630 on Saturdays and shall not take place at all on Sundays or Bank or National Holidays.

Application for costs

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

Procedural Matters

3. I have used the description of development from the decision notice for clarity.
4. The point of contention between the parties relates solely to condition No 5 of the planning permission, in relation to the working hours at the appeal site. I have no reason to disagree with the conclusions reached by the Council in respect of all other issues relating to the determination of the planning application.

Background and Main Issue

5. In approving the planning application, the Council imposed a condition (No 5) restricting the working hours and days of the week that the site shall operate. On Mondays through to Fridays the condition restricts the working hours to between 0800 and 1730.
6. In November 2018, notwithstanding arguments from the appellant, conceded by the Council, that there was an administrative error, planning permission¹ was granted to extend the working hours of the live/work unit (block 2) at the site on Mondays through to Fridays to between 0730 and 1900. The appellant now seeks to vary condition No 5 attached to the 2006 planning permission² to extend the working hours of all the units across the whole site (not just block 2) on Mondays through to Fridays to between 0730 and 1900.
7. I therefore consider the main issue is the effect that varying the working hours of all the units would have on the living conditions of neighbouring residents, with particular regard to noise and disturbance.

Reasons

8. The appeal site is in a rural location outside of a settlement area. It is located on the western side of Burrows Lane and is accessed via an existing drive which serves the site and neighbouring residential properties. There are residential properties located on all sides of the site and on the eastern side of Burrows Lane opposite the site.
9. I saw at the time of my site visit a bus stop close to the appeal site. However, in the absence of any evidence before me to indicate the frequency or times of public transport to and from the site, or any details of other modes of readily available public transport, future employees would mainly travel to the site using private motor vehicles.
10. The evidence indicates that the buildings, which at the time of my site visit were being erected, will be used for B1 office use. The planning permission includes the addition of dormer windows which the Council calculate will result in a small increase in the floor space at first floor level totalling around 15 m² across blocks 2, 3 and 4. However, I consider the additional floor space is not

¹ Reference No. 18/P/01775

² Reference No. 06/P/00548

so significant that it would result in any material increase in the number of people that could work at the site at any one time.

11. The proposed extended working hours would allow greater flexibility in the working patterns of future employees at the site. Whilst some future employees may arrive and leave at the normal morning and evening peak times, there is potential for some to arrive around half an hour earlier in the morning and leave around one and a half hours later in the evening as a result of the proposed extended working hours. The potential therefore exists for noise and disturbance associated with the arrival and departure of motor vehicles during the proposed extended working hours to adversely affect those living nearby. Given the number of objections to the proposal, this is clearly a concern for neighbouring residents.
12. The evidence indicates that the appeal site would include parking provision for future employees. However, concerns have been raised that the provision would not be adequate for the number of people that could be employed at the site, and so future employees may park their motor vehicles along Burrows Lane and the evidence³ indicates that they may also park on the track located to the north of the appeal site. However, I have already found that the proposal would not result in any material increase in the number of people that could work at the site at any one time. Thus, notwithstanding the concerns raised about parking, I have not been presented with any substantive evidence to indicate that the proposed extended working hours would result in any material increase in the number of motor vehicles arriving and departing the site nor increase the associated parking requirements. Consequently, although the proposal would extend the 'working day' to around eleven and a half hours on Mondays through to Fridays, it would not result in any material increase in noise and disturbance arising from the number of vehicle movements either on or in the vicinity of the site.
13. In the winter months, during times of darkness in the morning and evening periods associated with the already permitted working hours, the headlights of motor vehicles arriving and departing the site and parking and turning in the vicinity of the site, would be noticeable and potentially disturb those living nearby. Taking into account that the working hours would only be slightly extended and that there would already potentially be some disturbance resulting from the headlights of motor vehicles associated with the already permitted working hours, I do not consider that the proposal would result in a material increase in disturbance in this regard.
14. Concerns have been raised that the proposed extended working hours would result in disturbance from internal office lights and external site lighting for longer periods of time in the mornings and evenings during the darker winter months. However, notwithstanding that there is no street lighting, I have not been presented with any compelling evidence that the artificial light coming from the windows of the office units would be so great that it would adversely affect the living conditions of neighbouring residents. In regard to external site lighting, irrespective of the proposal to extend the working hours, the planning permission granted includes a condition (No 3) restricting the installation of any such lighting on the site.

³ Appellant's letter to a neighbour dated 23 August 2019

15. I acknowledge that other businesses in the area have business opening hours similar to the already permitted working hours at the appeal site. However, I have no evidence before me to indicate that the working hours of employees of these other businesses in the area is restricted to their respective opening hours. Thus, it is possible that employees of these other businesses may work similar hours to those proposed at the appeal site.
16. I have taken into account the concerns raised by interested parties, which I take very seriously. The proposal would only slightly extend the working hours at the site on Mondays through to Fridays and would not extend the working hours very late into the evening. For the above reasons, I find that to vary condition No 5 to extend the working hours of all the units across the site on Mondays through to Fridays to between 0730 and 1900 would not have a harmful effect on the living conditions of neighbouring residents with regard to noise and disturbance. It therefore follows that I find no conflict with Policy G1(3) of the Guildford Borough Local Plan 2003 which, amongst other things, seeks to ensure that the amenities enjoyed by occupants of buildings are protected from unneighbourly development in terms of noise.
17. The Council, in the interests of the living conditions of neighbouring residents, also intended to restrict the hours of deliveries to the office units and live/work unit. In this regard, I agree with the Council and therefore it is necessary, consistent with the condition attached to the 2018 planning permission and with the application, subject of this appeal, that a restriction on the hours and days that deliveries are permitted is included within the wording of the condition. To this extent, notwithstanding the hours set out in the officer report, I have reflected those set out in the 2018 planning permission and I note that this conforms with the appellant's own suggested condition.

Conclusion

18. For the reasons given above, I conclude that the appeal should succeed, and the planning permission should be varied as set out in the formal decision.

Andrew Bremford

INSPECTOR