
Appeal Decision

Site visit made on 28 January 2020

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

an Inspector appointed by the Secretary of State

Decision date: 20 July 2020

Appeal Ref: APP/Y3615/W/19/3240812

90 Potters Lane, Send GU23 7AL

- 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 McKay (St Patrick's (Potters Lane) Ltd) against the decision of Guildford Borough Council.
 - The application Ref 19/P/00918, dated 17 May 2019, was refused by notice dated 11 July 2019.
 - The development proposed is the demolition of existing dwelling (90 Potters Lane): erection of 5 dwellings (2 x 3-Bed, 3 x 4-bed) with associated vehicular and pedestrian access, and parking.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 27 April 2020.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted a revised access arrangement plan (AAP), along with an accompanying highway justification, at the appeal stage. This seeks to address a highway safety reason for refusal and the substance of the scheme in highway terms has not changed. The Council and third parties have had an opportunity to comment upon the changes during the appeal process and their interests would not be prejudiced in considering this scheme change.
3. The Council no longer raises an objection on highway safety grounds to the proposal following the AAP and highway justification. The highway authority now raises no objections to the proposal. Nevertheless, my reasoning will comment on this issue, taking into account third party representations.
4. A section 106 agreement (s106) dated 19 February 2020 details mitigation measures for the Thames Basin Heaths Special Protection Area which will be commented upon in my decision. On 13 February 2020, the Government published the latest Housing Delivery Test (HDT) and the comments of both main parties have been considered within the reasoning of this decision.

Main Issues

5. The main issues are the effects of the proposal on (a) the character and appearance of the area, (b) the living conditions of the occupants of 82, 86, 88

and 92 Potters Lane, having regard to outlook, privacy, noise and disturbance, (c) the safety of the highway users of the proposed access drive and Potters Lane.

Reasons

Character and appearance

6. The appeal site comprises an existing two storey dwelling at 90 Potters Lane, a substantial attached rear garden and a large low-level outbuilding with hard standing within the garden. Along the boundaries of the site, there is timber fencing, with hedging behind in many places. There is a large oak tree straddling the rear boundary. Beyond this boundary, there are largely open undeveloped areas towards the River Wey which is at a lower level.
7. Dwellings are of varying designs, ages and sizes in the surrounding area. Nevertheless, the existing pattern of development along Potters Lane is mainly linear frontage development with long rear gardens. The scattering of sporadic sited dwellings behind this frontage, including a nearby bungalow at 82 Potters Lane, is an exception to this predominant pattern of development by reason of their limited number. Most plots, including those behind the main dwelling street frontage, are also spacious in their extent.
8. The rear part of the site lies within a designated Corridor of the River Wey, under the Guildford Borough Local Plan (LP) 2003, which has particular visual, setting, amenities, ecological value, architectural and historic values. Policy G11 of the LP requires all development within the corridor to protect and improve the special character of the River Wey and its visual setting and that the special character of the landscape in the corridor is protected or improved. The corridor contains paddocks, fields, hedgerows and woodland alongside the river and is an attractive countryside area.
9. In summary, the appeal site and the surrounding area are characterised by varied residential design but a strong linear pattern of development, along with spacious, landscaped and countryside setting qualities. Such qualities contribute to a locally distinctive character and appearance in the area.
10. The appearance of the proposed dwellings would reflect local traditional housing design. However, the four dwellings to the rear would be substantial in size on relatively small plots. In this regard, they would occupy most of the width of their plots with limited space to flank plot boundaries and small rear gardens compared to surrounding dwellings. Hard surfaced areas for vehicle parking and pedestrian access would dominate their frontages. Such a cramped and densely developed layout and scale of development would be markedly out of kilter with the more spacious, landscaped and countryside setting qualities of the area.
11. Views from the public footpath from the river and across the fields off Potters Lane would be limited, even in winter. However, the scale and layout of the development would be overly cramped and incongruous which would be evident from the occupiers and users of surrounding land within and outside the designated Corridor. Furthermore, the development would be greatly unsympathetic to local character, including the surrounding built environment and landscape setting. This would be perceived through increased activity in

and around the site. It would not be appropriate innovation or change, being markedly at odds with the rural and largely undeveloped nature of the Corridor.

12. Parties dispute as to how density calculations for the site and other existing developments have been derived. However, density is only one measure of assessing the impact of a proposal on the character and appearance of the area. In my assessment, the rearward siting of the four dwellings, development scale and extent, including hard surfacing, on relatively small plots, would strongly indicate an adverse effect on the character and appearance of the area.
13. The replacement dwelling would not adversely disrupt the existing spaciousness of dwellings along the frontage. However, the frontage hard surfacing comprising access road, including its bell mouth, and vehicle parking would be substantial by virtue of its width and length. In particular, the access road would appear cramped being so close to the flank of this dwelling. Such an access arrangement would be in marked contrast with the accesses for rear sited dwellings in Potters Lane, where they exist, which generally have more informal and less hard surfaced dominated frontages. There is an access drive some 110m away north of the site but even here, the access has a less cramped appearance because there is greater landscaping either side of it, especially adjacent to dwellings.
14. At London Road in Guildford, there is a frontage dwelling with access alongside serving dwellings to the rear. However, the submitted photograph shows landscaping either side of the frontage access and the location of the site is within a more built up area. There is development to the rear of Potters Lane at Worsfold Close and Briar Road but these do not lie within the immediate vicinity of the appeal site. Worsfold Close lies some 300m to the north of the site. Briar Road is also not a backland development but an entirely separate residential road. Consequently, there are material differences between these schemes and the appeal proposal. In any case, every proposal must be considered on its particular planning merits.
15. For all these reasons, the development would not result in a well-designed place and would harm the character and appearance of the area including the River Wey designated Corridor. Accordingly, the proposal would conflict with policies G5 and G11 of the LP and policy D1 of the Guildford borough Local Plan: strategy and sites 2015-2034 (LPSS) (2019).

Living conditions

16. The backland sited dwellings would be mainly alongside the gardens of 82 and 92 Potters Lane which have extensive rear gardens. For each property, there would be the flanks of two new dwellings alongside their gardens. Boundaries have fencing and generally low level deciduous vegetation. Due to topography, the ground level of the appeal development would be lower than the garden of No 82.
17. At No 82, there is also a garage building alongside the side boundary of the appeal site which would screen the impact of one of the two new dwellings in relation to their garden. However, the first floor and roof of the remaining new dwelling would still be overbearing by reason of substantial scale and extent. At No 92, there would be two substantial sized dwellings alongside their side boundary and garden which would be overbearing for similar reasons. For all

these reasons, there would be a significant loss of outlook for these neighbouring residents using their gardens.

18. A new dwelling would back onto the rear garden of 88 Potters Lane and the side and a small rear part of the garden of 86 Potters Lane. There is no guarantee that existing boundary vegetation would remain. Nevertheless, there is already a large outbuilding in this location and the ground levels of the appeal site are lower than the gardens of these neighbouring properties. Taking these factors into account, along with the dwelling's set back distance from the rear gardens of these properties, there would be no significant loss of outlook to these neighbouring residents.
19. The access to the four rear dwellings would be directly alongside the common boundary, garden and dwelling at No 88. The appellant has agreed the principle of a 2m acoustic fencing along this boundary and appropriate hard surfacing to minimise noise from vehicle movements. Such details could ensure noise and light glare from vehicles would be minimised and limited. A noise acoustic assessment report could set out existing and proposed noise levels, with mitigation measures if necessary. Conditions could require the implementation of these measures. On this basis, the living conditions of the occupiers of this neighbouring property would not be significantly affected.
20. The new dwellings' flanks would have single first floor windows, serving bathrooms which could be obscure glazed and non-opening. All other first floor windows would be forward facing such that views of neighbour's properties at Nos 92 and 82 would be at angle and limited. In relation to Nos 88 and 86, the new dwellings would be sited a significant distance from gardens and no loss of privacy would result. Taking these aspects of the proposal, there would be no significant overlooking, including perceived, of neighbouring properties.
21. For all these reasons, the development would harm the living conditions of the occupants at Nos 82 and 92, having regard to outlook. Accordingly, the proposal would conflict with policy D1 of the LPSS. There would be no conflict with LP policy G1 because it does refer to outlook.

Highway safety

22. The access would be directly onto Potters Lane and there is a tree, protected by a Tree Preservation Order, located close to the highway to the south. The AAP shows an access visibility splay of 2m set back from the carriageway (x-distance) and 43m along the road (y-distance) based on a typographical survey. A third party disputes the achievable visibility splay shown past the tree.
23. The x-distance would meet the requirement of The Manual for Streets 2 (MfS2) 2010 for a 30mph limit along Potters Lane. The MfS2 requires an x-distance of 2.4m but does allow for a reduced distance of 2m in some slow speed situations. The highway authority's guidance accepts a x-distance of 2m for up to six dwellings. The MfS2 states that based on research, unless there is local evidence to the contrary, a reduction in visibility below the recommended levels will not necessarily be a problem.
24. A Parish Council speed survey indicates speeds in excess of the road speed limit which would require a y-distance of 68.9 m. As the survey was purportedly carried out in poor weather, it has been indicated that a greater

visibility requirement, based on the Design Manual for Roads and Bridges (DMfRB), is required.

25. However, the survey documentation makes no reference to weather conditions and the submitted separate weather report is for Woking. It also shows summaries of weather conditions for long periods of time which results in a rather crude generalisation. Consequently, it has not been demonstrated that the greater DMfRB visibility is required. In respect of a y-distance of 68.9m, the MfS2 states that the absence of wide visibility splays at private driveways will encourage drivers to emerge more cautiously. Indeed, it indicates parking in visibility splays in built-up areas is quite common, yet it does not appear to create significant problems in practice.
26. Based on my site observations at 1.05m above ground level, the proposed visibility was acceptable in respect of incoming vehicles. In this respect, the third party transport consultant agrees that a y distance of 45.3 m can actually be achieved with x-distance of 2m at roughly this height. Whilst an x-distance may necessitate the encroaching of the vehicle into the highway to fully see oncoming traffic in some situations, the forward visibility of approaching traffic is extensive. Such extensive forward visibility would give plenty of time to alert drivers on Potters Lane to see other drivers coming out of the access drive for this development. Towards 2m above ground level, visibility would diminish due to the lean of the tree, but the residential development would generally attract cars and not larger vehicles where drivers are sat higher up in a seat position. During construction, lorries would access the site, but this would only be of short-term occurrence.
27. There is some dispute over offset distance in the measurement of the y-distance. The y-distance is normally taken to a point on the carriageway rather than the kerb line so as to represent outermost wheel track of oncoming vehicles. Nonetheless, if the edge of the vehicle is closer to the verge than 0.5m then its bonnet would still be visible and thus, it is not necessary to see the nearside corner of a vehicle. In terms of bicycles and motor bikes, riding at 0.3m away from the kerb line would also be uncomfortably close, especially with debris adjacent to the kerb. Therefore, the 0.5m offset is reasonable.
28. Whilst developments are subject to independent Safety Audits, there is no significant highway works proposed here and therefore, a need has not been demonstrated. For all these reasons, the development would not result in an unacceptable impact on highway safety nor would the residual cumulative impacts on the road network be severe. Such an opinion coincides with that of the highway authority. Accordingly, the proposal would comply with policy ID3 of the LP.

Other matters

29. There is a dispute as to the status of the land in policy terms, whether it is inset (removed) from the Green Belt, outside of a settlement boundary (SB), or within a settlement boundary. Nevertheless, even if the settlement of Send had its own settlement boundary and associated policy support for the principle of residential development, the adverse impacts on character and appearance and living conditions would be substantial for the reasons indicated and as a result, overriding considerations.

30. In considering housing provision and alterations to the Green Belt, the Local Plan Inspector accepted that villages could accommodate infill development to accommodate local need without adversely affecting their character. However, this was subject to a presumption that the plan's design, heritage, landscape and other policies would still exercise control over development within them. For the reasons indicated, the proposal would conflict with policies of the LPSS on these matters.
31. The HDT requires a 20% buffer allowance requirement within the five year housing land supply (5YHLS) assessment but this is already incorporated with the 5YHLS figure. Nevertheless, the additional four dwellings would also contribute to the windfall targets within the development plan, including the LPSS, and would help meet the Council's housing needs. The appellant indicates that the Council had a previous record of past persistent under-delivery of housing. Such considerations factors would weigh in favour of the proposal but the identified harms would be substantial and permanent. The development would not be well-designed and yet good design is a key aspect of sustainable development. The Council's positive 5YHLS has not been disputed. For all these reasons, the adverse impacts of this development would outweigh the benefits and the proposal would not be sustainable development.
32. As there are substantive reasons to dismiss this appeal, there is no requirement for me to consider whether the obligation meets the statutory tests that are detailed in the Framework or undertake an Appropriate Assessment under the relevant Habitat Regulations.

Conclusion

33. There would be harm to the character and appearance of the area and the living conditions of residents in conflict with policies of the LP and LPSS and the development plan taken as a whole. The proposal should be determined in accordance with the development plan that it conflicts with. There are no material considerations of sufficient weight or importance to indicate otherwise and the proposal should be refused planning permission.
34. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR