
Appeal Decision

Site visit made on 15 September 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/A3655/W/19/3240681

Albert House, Albert Drive, Sheerwater, Woking, GU21 5JZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Howard Homes PLC against the decision of Woking Borough Council.
 - The application Ref PLAN/2019/0555, dated 31 May 2019, was refused by notice dated 20 September 2019.
 - The development proposed is redevelopment of site to provide 38 residential units.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal is made in outline with landscaping reserved for later determination. All other matters including layout, scale, appearance and access are for consideration as part of the appeal.
3. The appeal is accompanied by a unilateral undertaking that would secure 16 of the units as affordable housing and provide a financial contribution for mitigating potential adverse impacts on the Thames Basin Heaths Special Protection Area. I have had regard to this undertaking in reaching my decision.

Main Issues

4. The main issues are:
 - The effect on the character and appearance of the area
 - The living conditions of future occupiers of the front ground floor flats with regard to outlook and privacy
 - The proportion of affordable housing tenures within the scheme
 - The risk of surface water flooding
 - The effect on the Thames Basin Heaths Special Protection Area.

Reasons

Character and appearance

5. The appeal site forms part of a commercial estate lying between Albert Drive and a railway line. On the opposite side of the drive from the appeal site is a residential estate of mainly terraced houses. To the west this juxtaposition reverses with commercial buildings on the opposite side of the drive, and residential houses on the same side but separated from the appeal site by the sweep of the drive and the boundary to the railway line. The commercial estate is made up of large scale, modern office buildings, while the terraced houses are domestic in scale and of traditional design.
6. The one characteristic that is common to both sides of Albert Drive in the vicinity of the appeal site is the amount of open space. The drive is flanked by grass verges and pavement/cycle paths, which are further enhanced by wide landscaped areas in front of the office buildings, and open grassed areas in front of the terraced houses, particularly around the junction with Blackmore Crescent on the opposite side of Albert Drive to the appeal site. These landscaped areas are wide enough to accommodate trees of substantial size, which are a feature in views along the drive. Even where ancillary parking comes closer to the drive than the buildings, enough space has been left to accommodate hedging and mature trees. Taken together, these features provide a spacious, verdant setting to Albert Drive.
7. In contrast to the prevailing character of this part of Albert Drive, the proposed building would be sited close to the back edge of the pavement. It would also be considerably higher than the nearest buildings in the commercial estate. These two aspects taken together would, in my view, result in the proposed building appearing cramped and overdeveloped, at odds with the more open setting of the area.
8. The lack of space along the frontage would also limit the ability to soften the appearance of the building through landscaping and gives no room for large trees to grow to maturity. This applies not only to the siting of the building but also parking spaces 1 and 2, which are shown to be hard up against the back edge of the pavement. Although landscaping is a reserved matter, it is necessary to consider the opportunity for such planting in general terms within the appeal scheme, given the important role that open space and landscaping play in defining the character of this part of Albert Drive.
9. I have no doubt that the site could accommodate a reasonably large building given its extent, the proximity of large scale buildings in the adjacent commercial estate and visual separation from the more domestic scale houses opposite. However, it does not strike me as being a 'gateway' site where a building of an entirely different scale, height or positioning could be accommodated. In my view, development on the site needs to take account of and respect the prevailing characteristics of the area.
10. I conclude that due to its height and position close to Albert Drive, and the lack of space for landscaping, the development would harm the character and appearance of the area thereby conflicting with Policy CS21 of the Woking Core Strategy 2012 and the Woking Design Supplementary Planning Document 2015, which require new development to respect and make a positive contribution to the street scene and the character of the area in which it is situated.

Living conditions

11. Three single aspect ground floor flats would face onto and be in close proximity to the pavement along Albert Drive. While I accept the appellant's argument that in such circumstances privacy to windows can generally be mitigated through the use of net curtains and/or blinds, that cannot be said of the private outdoor terraces for each flat, which occupants could reasonably expect to be able to use with some degree of privacy. At its closest, the pavement would be within 0.9m of the terraces of two of the ground floor flats and about 2.4m from the third. This would bring pedestrians very close to these private outdoor areas and would leave insufficient room to provide landscape screening, at least for the two closest flats. The outlook from the flats would be reasonable but the harm to their privacy adds to my concerns about the development.
12. I conclude that the living conditions for occupants of the ground floor flats closest to the pavement would be harmed through a lack of privacy to their private outdoor terraces, and as a consequence the development would conflict with Policy CS21 of the Woking Core Strategy 2012, which requires new development to achieve a satisfactory relationship avoiding significant harmful impact in terms of loss of privacy. It would for the same reason conflict with the Woking Local Development Framework Supplementary Planning Document: Outlook, Amenity, Privacy & Daylight 2008.

Affordable housing

13. Policy CS12 of the Woking Core Strategy 2012 requires the provision of affordable housing and, amongst other criteria, that the affordable housing to be provided by any particular site should take into account the need to provide an appropriate tenure mix that meets the needs of local residents, as evidenced by the latest Strategic Housing Market Assessment.
14. The appellant states that there is not an up-to-date Strategic Housing Market Assessment. However, an update to the 2009 Assessment was carried out in 2015 which confirmed the preferred tenure mix of 70:30 affordable rented:shared ownership. I am therefore satisfied that there is an evidenced need for affordable housing as part of the development, and also a need for a high proportion of that affordable housing to be of affordable rented tenure, in accordance with the Strategic Housing Market Assessment.
15. The appellant has submitted a unilateral undertaking that would secure 16 of the 38 flats as affordable units, with 10 as affordable rented units and 6 as shared ownership units, giving a 62.5:37.5 affordable rented:shared ownership tenure mix. Although the unilateral undertaking would secure an appropriate number and mix of affordable units as part of the scheme, it would fail to secure an appropriate tenure mix, which Policy CS12 requires to be 70:30 affordable rented:shared ownership. This part of the unilateral undertaking would therefore fail to meet one of the tests set out in Regulation 122 of The Community Infrastructure Levy Regulations 2010, which is to make the development acceptable in planning terms.
16. In the absence of any reason why the appeal scheme cannot provide a tenure mix as suggested by the Strategic Housing Market Assessment, I conclude that the affordable housing provision offered as part of the scheme is deficient in the number of affordable rented units offered as a proportion of the total number of affordable units. As such, it conflicts with Policy CS12 of the Woking Core Strategy 2012 and fails to meet the housing needs of local residents.

Flooding

17. An extract from the surface water flooding maps submitted by the appellant indicates that surface water flooding occurs in the vicinity of the site, with pooling of water taking place at the entrance to Woking Business Park to the west of the appeal site and also adjacent to the railway line within the business park. In times of heavy surface water flooding, these areas may extend up to and slightly come within the boundaries of the appeal site.
18. A drainage strategy submitted with the appeal concludes that surface water flooding is unlikely on the majority of the site, in particular the part that would be occupied by the building¹. Having regard to the extent of surface water flooding as shown on the flood maps I agree with that assessment.
19. Because of the proximity of the railway line the use of on-site soakaways has been discounted and instead it is proposed to discharge surface water to a public surface water sewer. The rate of discharge would be controlled through an attenuation tank located under the parking area.
20. At present the site is almost completely covered by hard surfacing and has only one drain across its access. The proposed scheme would have less hard surfaced area, and the new hard surfaces would be permeable thus improving on the current situation. The attenuation tank would also provide a controlled rate of runoff to the surface water sewer reducing the possibility of surcharging.
21. The Council raises an objection to the surface water drainage proposals but has provided no explanation as to why. I note that Thames Water raises no objection to the surface water drainage arrangements proposed.
22. Having regard to the evidence before me I conclude that the development would not worsen, and in some respects would improve upon, the risk of the site contributing to surface water flooding in the immediate area, and would therefore comply with Policy CS9 of the Woking Core Strategy 2012, which requires all significant forms of development to incorporate appropriate sustainable drainage systems as part of any development proposal.

Special Protection Area

23. The site lies within the zone of influence of the Thames Basin Heaths Special Protection Area. This area is noted for its ground nesting heathland bird population and is protected under the Conservation of Habitats and Species Regulations 2017.
24. Having regard to the evidence provided by the Council I consider that the development could, in combination with other development in the area, have a significant adverse effect on the Special Protection Area through added recreational pressure causing disturbance to the bird population. It is therefore necessary to assess whether the potential adverse impact could be adequately mitigated so as to avoid any significant adverse effect on the conservation objectives of the Special Protection Area.

¹ Lanmor Consulting – Drainage Strategy, May 2019.

25. The Council, in partnership with neighbouring councils and conservation bodies, including Natural England, has developed an approach to mitigation based on the provision of suitable alternative natural greenspace and a strategic access management and monitoring plan. Residential development between 400m and 5km from the Special Protection Area can mitigate its potential adverse impact by making a financial contribution towards these initiatives.
26. The appellant has provided in a unilateral undertaking to make a financial contribution to the management plan. I consider that this part of the undertaking meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and therefore carries weight. A separate contribution towards the provision of suitable alternative natural greenspace would be made as part of the community infrastructure levy. I am satisfied that these contributions would result in suitable mitigation such that the development would avoid having any significant adverse effect on the Special Protection Area.
27. I conclude that, subject to the relevant financial contributions, the development would not harm the Thames Basin Heaths Special Protection Area and would therefore comply with Policy CS8 of the Woking Core Strategy 2012 and saved Policy NRM6 of the South East Plan 2009, which seek to protect sites of nature conservation importance. It would also accord with the Thames Basin Heaths Avoidance Strategy and Conservation of Habitats and Species Regulations for the reasons set out above.

Other Matters

28. The provision of 38 residential units, including 16 affordable units, would help in meeting the need for new housing in the area and increasing the Borough's housing stock. I recognise this as a benefit of the scheme.
29. The Woking Core Strategy was reviewed in 2018 and found to be in accordance with national planning policy at that time. In addition, the latest housing land supply statement shows a five year housing land supply, plus buffer, of approximately 9 years. I therefore consider the Strategy and its policies, including those relating to housing, to be up to date.

Conclusion

30. I have found that the proposal would be acceptable in terms of flood risk and that the impact on the Thames Basin Heaths Special Protection Area could be mitigated through the community infrastructure levy and the management contribution secured by the submitted unilateral undertaking. However, these are neutral matters in so far as they do not result in harm.
31. I consider that the proposal would bring about benefits in terms of increasing the supply of housing, including affordable units, in the Borough. However, I am only able to attach moderate weight to this latter benefit given the failure of the unilateral undertaking to secure an appropriate tenure mix of affordable housing units.
32. Overall, the significant harm I have identified to the character and appearance of the area and the living conditions of future occupants would not be outweighed by the benefits. There are no other considerations before me of sufficient weight to outweigh the totality of harm arising and the conflict with the Development Plan taken as a whole.

33. For those reasons I conclude that the appeal is dismissed.

Guy Davies

INSPECTOR