



Appeal Decisions

Site visit made on 11 January 2021

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2021

Appeal A: APP/L3625/C/20/3252951

The land known as Former Kings Barn, Waterhouse Lane, Kingswood, Surrey

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Whiteoak Development Ltd against an enforcement notice issued by Reigate & Banstead Borough Council.
 - The enforcement notice was issued on 21 April 2020.
 - The breach of planning control as alleged in the notice is: The westernmost wing roof ridge is constructed to a height that fails to comply with the approved plans in breach of condition 1 of planning permission 18/02635/S73 (approved Elevation Plan J002497/PL09 G) / The westernmost wing roof ridge is constructed to a height that fails to comply with the approved plans in breach of condition 1 of planning permission 17/02292/S73 (approved Elevation Plan J002497/PL09 Rev A).
 - The requirements of the notice are: Either: Reduce the roof ridge height of the westernmost wing of the development in accordance with the approved plan submitted as part of the approved planning permission reference 18/02635/S73 (drawing number J002497/PL 09G), and complete the remainder of development in its entirety in accordance with the approved plans as set out in condition 1 to planning permission reference 18/02635/S73 or: Reduce the roof ridge height of the westernmost wing of the development in accordance with the approved plan submitted as part of the approved planning permission reference 17/02292/S73 (drawing number J002497 / PL 09 Rev A), and complete the remainder of development in its entirety in accordance with the approved plans as set out in condition 1 to planning permission reference 17/02292/S73.
 - The period for compliance with the requirements six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B: APP/L3625/W/19/3242918

Kingsbarn, Waterhouse Lane, Kingswood KT20 6HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Whiteoak Developments Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 19/01367/S73, dated 5 July 2019, was refused by notice dated 16 October 2019.
 - The conditions in dispute are 1, 3, 6, 8, 9 & 13 of planning permission Ref 18/02635/S73, granted on 17 May 2019.
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- The planning permission was for the erection of building comprising 9 apartments with associated landscaping, parking and cycle parking. Variation of conditions 1,3,6,8,9 & 13 of permission 16/02517/F. Amendments to plans, ground levels and site layout. As amended on 08/02/2019, 20/02/2019, 01/04/2019, 03/04/2019, 05/04/2019 and on 14/05/2019.
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Summary of Decisions

Appeal A

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B

2. The appeal is allowed, and planning permission is granted subject to the conditions set out below in the Formal Decision.

Application for Costs

3. An application for costs was made by Whiteoak Development Ltd against Reigate & Banstead Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

4. Appeal B relates to a planning application to vary conditions 1, 3, 6, 8, 9 and 13 of planning permission 18/02635/S73. This variation therefore relates to amendments to layout, floor plans and elevations, ground levels, arboricultural information, construction management, site layout and boundary treatments. I have therefore had full regard to these conditions and their reasons for the purposes of my assessment.
5. As appeals A and B primarily relate to regularising the same development, and the matter in dispute concerns a differing roof form to the western wing of the building, I have considered the appeals together.

Appeals A and B - The ground (a) appeal and planning refusal

Main Issues

6. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the living conditions of occupiers of 'Burbank'.

Reasons

7. The site comprises a large plot where a block containing 9 apartments is at an advanced stage of construction. The site is partially elevated, and the area characterised by large detached dwellings in spacious plots.
8. The development before me relates to variations to the previously approved scheme for 9 apartments. These variations primarily relate to works that have been undertaken to the roof of the western wing of the building in respect of an

increased ridge height and other associated roof alterations including changes to dormer windows. The enforcement notice however only requires steps to be taken in respect of the reduction in the ridge height of this part of the building, so that it accords with that previously approved.

Character and appearance

9. The site is located within a Residential Area of Special Character (the RASC), which I am advised is characterised by spacious forms of development within sylvan settings. That said, planning permission has already been granted for a block of 9 apartments at the site, and these are designed so as to resemble two buildings. The site is also outside, but adjacent to, the Kingswood Conservation Area (the CA).
10. I appreciate that a lower ridge height on the western wing of the building was seen by the Council to ameliorate the impact of the scheme as a whole. However, as constructed, the building does not appear significant within the street-scene or result in an overly dominant building or overdevelopment of the site given the maturity of boundary treatments, the planting since undertaken, and the spacing between adjoining buildings. Whilst the building is in a raised position from the road, the variations nevertheless respect the character of the surrounding area.
11. The quantum of variations between the approved schemes and that as built are not minimal, but the built form is nevertheless of a scale and design that is suitable in comparison. The variations to the building, because they primarily relate to an increase in height, as opposed changes to the footprint of the building, therefore do not harm the otherwise spacious, open and verdant character of the area. For the same reasons, the development would preserve the setting of the CA.
12. I conclude that the development is not harmful to the character and appearance of the area and therefore accords with Policies DES1 and DES3 of the Reigate & Banstead Local Plan Development Management Plan, adopted September 2019 (the LP). These policies, amongst other things, require development to respect the character of the surrounding area and within the RASC to not lead to an over-dominance of the built form within the plot.

Living conditions

13. I have little evidence before me that the footprint of the building has encroached any closer to the neighbouring property of Burbank or that the pair of hipped gables in closest proximity to this property have been increased in height.
14. Rather, it is primarily the ridge height of the main western wing of the building that has been increased in height. Whilst this crown roof then runs parallel with the adjoining boundary of Burbank, I do not find its bulk, scale or massing to result in an overbearing or dominant building, particularly when considered against that already approved. I also observed during my site visit that the building is situated alongside and to the front of the Burbank dwelling itself, and therefore its perception of scale is reduced to the rear, where there is a sunken patio area. I also have little evidence before me that the development as constructed overshadows Burbank to any materially greater extent than that already approved, or, that other adverse impacts arise.

15. I conclude that the development is not harmful to the living conditions of occupiers of 'Burbank' and therefore accords with Policy DES1 of the LP which requires, amongst other things, for development to not adversely impact upon the amenity of occupants of existing nearby buildings.

Other Matters

16. I appreciate that planning matters have been ongoing at this site for a considerable period of time, with previous planning applications as well as dismissed appeals. Nevertheless, my assessment is restricted to the planning merits of the specific variations and evidence before me. I therefore cannot insist the development is constructed in accordance with previously approved plans in circumstances where I do not find planning harm. Matters such as highway safety, amongst other things, are therefore not specifically before me and I note are not in dispute between the main parties or raised by the Council in its reasons for taking enforcement action.

Planning Conditions

17. The Council and appellant have agreed a list of suggested planning conditions. I also consider these to be reasonable and necessary in the interests of protecting the character and appearance of the area, living conditions and highway safety. It will therefore be appropriate to impose these in respect of both appeals.

Conclusion

18. For these reasons, the appeal on ground (a) and against the refusal of planning permission succeeds.

Overall Conclusion

19. For the reasons given above I conclude that the appeals should succeed, and planning permission will be granted. The appeal on grounds (f) and (g) do not therefore need to be considered.

Formal Decisions

Appeal A

20. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely variations to the western wing roof in breach of condition 1 of planning permissions 17/02292/S73 and 18/02635/S73 on the land known as Former Kings Barn, Waterhouse Lane, Kingswood, Surrey subject to the Schedule of Conditions attached to this decision.

Appeal B

21. The appeal is allowed and planning permission is granted for the variation of conditions 1, 3, 6, 8, 9 & 13 of planning permission Ref 18/02635/S73 at Kingsbarn, Waterhouse Lane, Kingswood KT20 6HU in accordance with the terms of the application, Ref 19/01367/S73, dated 5 July 2019, subject to the Schedule of Conditions attached to this decision.

Paul T Hocking

INSPECTOR

SCHEDULE OF CONDITIONS IN RESPECT OF APPEALS A AND B

1. The development hereby permitted shall be carried out in accordance with the following approved plans.

Plan Type	Reference	Version	Date Received
Site Layout Plan	J003312/PL01	A	04.10.2019
Arboricultural Plan	752-L-01	K	04.10.2019
Other Plan	J003312/PL12		10.07.2019
Site Layout Plan	TSP/WDL/P2000/201/01 H		10.07.2019
Street Scene	J003312/PL08		10.07.2019
Street Scene	J003312/PL11		10.07.2019
Elevation Plan	J003312/PL10		10.07.2019
Section Plan	J003312/PL09		10.07.2019
Elevation Plan	J003312/PL07		10.07.2019
Elevation Plan	J003312/PL06		10.07.2019
Elevation Plan	J003312/PL05		10.07.2019
Roof Plan	J003312/PL04		10.07.2019
Floor Plan	J003312/PL03		10.07.2019
Floor Plan	J003312/PL02		10.07.2019
Arboricultural Plan	752-L-02 G		04.10.2019

2. The development hereby approved shall be carried out in accordance with the levels details as per drawing PL09.
3. The development hereby approved shall be carried out in accordance with the external finishing materials and details as approved by application 16/02517/DET04. Any remedial works to the materials should be commenced within six months of the date of this permission.
4. The development hereby approved shall be carried out in accordance with the external finishing materials and details as approved by application 16/02517/DET05.
5. No development shall continue until all related arboricultural matters, including arboricultural supervision, monitoring and tree protection measures are implemented in strict accordance with the approved details contained in the Arboricultural matters report by ACS reference ha/an3/kingsbarn/0419 dated 3 April 2019.
6. All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development hereby approved.

Any trees shrubs or plants planted in accordance the approved scheme which are removed, die or become damaged or diseased within five years of planting shall be replaced within the one year by trees, shrubs of the same size and species in the same location.

7. The development hereby approved shall be carried out in accordance with the construction management plan PL12.

8. The development hereby approved shall not be first occupied unless and until the proposed modified vehicular access to Waterhouse Lane has been constructed and provided with visibility zones of 2.4m by 44m to the east and 2.4m by 59m to the west in accordance with the approved plans (drawing no. TSP/WDL/P2000/201/01 H) and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1.05m high.
9. The development hereby approved shall not be first occupied unless and until the existing western vehicular access from the site to Waterhouse Lane has been permanently closed and any kerbs, verge, footway, fully reinstated, in accordance with the approved plans (drawing no. TSP/WDL/P2000/201/01 H).
10. 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 to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear. Thereafter the parking/turning areas shall be retained and maintained for their designated purposes.
11. The development hereby approved shall not be first occupied unless and until the following facility has been provided in accordance with the approved plans for:

The secure parking of bicycles within the development site, and thereafter the said approved facility shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.
12. The development hereby approved shall be carried out in accordance with the boundary treatment condition as approved by Plan TSP/WDL/P2000/201/01.
13. The first and second floor windows in the east and west side elevations of the development hereby permitted shall be glazed with obscured glass which shall be fixed shut, apart from a top hung opening fanlight whose cill height shall not be less than 1.7 metres above internal floor level, and shall be maintained as such at all times.