



Appeal Decision

Site Visit made on 4 January 2021

by Mr Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2021

Appeal Ref: APP/D3640/W/20/3256546

Tekels Park Guest House, Dormy Flat, 8 Tekels Park, Tekels Court, Green Hedges and Dunmar, Tekels Park, Camberley GU15 2LF

- 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 Leo Quinn, on behalf of Quinttessential Surrey Limited, against the decision of Surrey Heath Borough Council.
 - The application Ref 19/0757/FFU, dated 9 October 2019, was refused by notice dated 10 July 2020.
 - The development proposed is for the construction of 2no. detached houses, 2no. semi-detached houses and a two-storey building providing 3no. flats with associated garaging, parking and landscaping following the demolition of Tekels Park Guest House, Dormy Flat, 8 Tekels Park, Tekels Court and Green Hedges with partial demolition and associated alterations to Dunmar.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of 2no. detached houses, 2no. semi-detached houses and a two-storey building providing 3no. flats with associated garaging, parking and landscaping following the demolition of Tekels Park Guest House, Dormy Flat, 8 Tekels Park, Tekels Court and Green Hedges with partial demolition and associated alterations to Dunmar at Tekels Park Guest House, Dormy Flat, 8 Tekels Park, Tekels Court, Green Hedges and Dunmar, Tekels Park, Camberley GU15 2LF, in accordance with the terms of application 19/0757/FFU dated 9 October 2019, subject to the submitted Legal Agreement and the attached schedule of conditions.

Preliminary Matters

2. The Habitat Regulations (2017) were subject to changes in 2019 through the Conservation of Habitats and Species (Amendment)(EU exit) Regulations 2019. This has made a number of changes to the 2017 Regulations, in particular with respect to the creation of a national site network and the management functions of this network. These changes came into effect from 1 January 2021. However, the obligations of a competent authority for the protection of sites and species do not change. Given the general nature of these changes it has not been necessary to seek the views of the main parties on their implications for the present case.
3. The appellant has submitted a completed Legal Agreement, in the form of a Unilateral Undertaking¹, that provides payment towards Strategic Access

¹ Unilateral Undertaking 10 December 2020

Management and Monitoring (SAMM). As a consequence, the Council has withdrawn its objection with respect to Reason for Refusal No 2. However, as the Competent Authority I am still required to undertake an Appropriate Assessment. I shall return to this matter later in my decision.

Main Issues

4. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area, and
- whether the proposal would affect the integrity of the Thames Basin Heaths Special Protection Area (TBHSPA).

Reasons

Character and appearance

5. Tekels Park is within the 'Wooded Hills' area as defined by the Council's Western Urban Area Character (WUAC) document. 'Wooded Hills' is characterised as containing large wooded Victorian estates. The prevailing character consists of dwellings that are predominantly set well back from the road within extensive plots. The majority of plots contain mature vegetation conveying a verdant character in a semi-rural setting. 'The Walled Garden' opposite the site, is of higher density in contrast to the wider area. This consists of two rows of close-knit dwellings that face each other over a central area of open green space. Also, a church/hall and small car park are located to the west of the site. The appeal site itself consists of a range of large interconnected buildings. The connected buildings are two-storey with pitched roofs and broadly simple functional forms. Consequently, the area includes a mix of dwelling styles and plot sizes. Although creating a strong sense of enclosure, opposite 'The Walled Garden', the buildings on site make a limited visual contribution towards the wider area. The appeal site therefore makes a neutral contribution to the character and appearance of the area.
6. The proposal would result in the erection of nine dwellings. These would be arranged to address the two adjacent roads. These would be largely in linear forms, overlooking the highway and 'The Walled Garden' opposite. The proposed block of three flats would be located behind the principal row and would continue a building line established by the vacant dwelling of 'Dunmar'. The configuration would be similar to the general layout, scale and height of the existing pattern of development on site. It would also largely replicate the feeling of intimacy found between the existing buildings and highway adjacent to 'The Walled Garden'. The set-back of frontages of Plots B to E would enable planting and parking to be provided, whilst also maintaining the existing sense of enclosure.
7. The Council's WUCA document includes guidance for development within 'Wooded Hills' in guiding principles WH1-WH6. These require development to be set in spacious plots and to prevent development that is contrary to the prevailing character of detached houses in generous plots. These principles also seek new development to consist of high-quality buildings and to resist development that would erode the semi-rural character of the area. Furthermore, guiding principles WUA1 and WUA2 seek development that pays regard to the locally distinctive and valued patterns of development. These

- require proposals to consider a range of matters including scale, mass, building lines and street scenes and to not erode the positive features of the character area.
8. Consequently, although the prevailing character of Tekels Park is recognised, the site context has a material bearing on the merits of the case. The proposal would replace existing built form that is substantive and relatively non-descript. The proposal would not therefore result in the erosion of the semi-rural character of the area. The design of the individual proposed dwellings includes good articulation of form and have features that add interest and variety to the street. This would therefore be a development of high-quality design. Therefore, although the proposal would not satisfy all guiding principles of the guidance, the principles contravened do not take into account the context of the scheme. Accordingly, the proposal would satisfy those key principles of the WUCA that can be applied to the circumstances of the appeal site.
 9. Furthermore, the proposed development would be in character with the form of development of 'The Walled Garden'. It would also complement the general mass and form of existing development on site and would therefore not be a discordant addition to the street. Moreover, the proposed dwellings would replace a sprawling building that appears to have evolved without a clear design philosophy. In contrast, the proposal would consist of distinctive and defined components with a variety of roof and elevational features that would add interest. This approach would result in a group of buildings that would have a unified design with a sympathetic form and group interest. Furthermore, although including dormer windows providing second floor use, the B to E retain a strong two-storey character, in keeping with the local vernacular of built form. The proposed dwellings would therefore result in a high-quality design that would enhance the appearance of the site.
 10. The wall of 'The Walled Garden' is locally listed in parts. The National Planning Policy Framework (The Framework) requires consideration of the impact of development, on the significance of a non-designated heritage asset, to be undertaken in a balance manner having regard to the scale of any harm and the significance of the asset. The significance of this feature is that it formed part of the Tekels Castle Estate. However, the proposal would result in no harm to this feature as the proposal would be of a similar scale to existing buildings and largely be set further away.
 11. Furthermore, the density of the proposal is comparable to 'The Walled Garden' development. Therefore, the proposal would be both in character with the surrounding area and complement local buildings. Consequently, taking the above points together, the proposed development would make a positive contribution to the character and appearance of the area.
 12. Accordingly, the proposal would satisfy policy CP2 and DM9 of the Surrey Heath Core Strategy and development management policies 2011-2028 (2012)(CS). These seek, amongst other things, for development to ensure all land is used efficiently within the context of its surroundings and be a high-quality design that maximises its linkages to the surrounding area. Furthermore, the proposal would accord with guiding principles WUA1, WUA2, WH1 and WH2 of the Western Urban Area Character SPD 2012. These policies are generally consistent with the Framework which seeks development to be sympathetic to local character and history.

Special Protection Area (SPA)

13. Policy CP14B of the CS states that the Council will only permit development affecting the SPA where it is satisfied it will not give rise to likely significant adverse effect upon the integrity of the TBHSPA. When considering the effect that a proposal may have on a SPA, a decision maker must consider mitigation within the Framework of an Appropriate Assessment (AA) rather than at the screening stage. This responsibility now falls to me within this appeal.
14. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of an SPA. The site is within 5kms of the TBHSPA. The SPA is designated as it provides feeding grounds for internationally protected populations of nightjar, woodlark and Dartford warbler. The breeding success of these birds is affected by disturbance from people and their pets. Main parties agree that it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the SPA due to the increased recreational use. I have no reason to disagree with this conclusion and the harm that such activity would cause.
15. I may consider any conditions or other restrictions which could secure mitigation of this harm. The Council's Avoidance Strategy² requires small scale development, such as the proposed scheme, to provide mitigation to prevent an adverse impact on the integrity of the SPA. This is required in the form of a contribution towards both a Suitable Alternative Natural Greenspace (SANG) and SAMM. Criterion (iv) of policy CP14B requires a contribution to be made toward SANGs at a rate of 8ha per 1,000 population. The Council collects SANG contributions through its Community Infrastructure Levy and SAMM contributions through an appropriate Legal Agreement. The Council has confirmed that it has sufficient capacity to accommodate the recreational needs of the development within its existing SANG at Surrey Heath. Furthermore, Natural England's standing advice and The Wildlife Trust confirm that they have no objection to the proposal provided that the mitigation sought by the Avoidance Strategy be secured through a Legal Agreement.
16. The required mitigation would result in a financial contribution towards SAMM. The submitted Unilateral Undertaking is a properly executed document and makes provision for the payment of the SAMM with payment to be made prior to the occupation of any dwelling. This sum is in accordance with the Council's Avoidance Strategy. The Council has accepted that this sum, and the payment mechanism, is an appropriate method to address the required mitigation. As such, I see no reason why such a sum would not be directed in the manner intended towards the required mitigation.
17. Therefore, although the obligation does not bind the Council, I am satisfied, based on the specific evidence before me, that it is a sufficient mechanism to enable the delivery of proportionate and relevant mitigation pursuant to the Avoidance Strategy. I am therefore satisfied, following Appropriate Assessment, that the proposed mitigation would be appropriately secured and delivered in a timely manner.
18. The proposal would therefore accord with policy CP14B (vi) of the CS and the Council's Avoidance Strategy. This would also satisfy the requirement of policy

² Thames Basin Heaths Special Protection Area Avoidance Strategy - Supplementary Planning Document 2012

NRM6, of the South East Plan 2009, which seeks development to provide mitigation measures that would be likely to affect the integrity of the SPA.

Other Matters

19. The dwelling of plot A would be close to an Oak tree subject to a tree preservation order. However, this dwelling would be on a similar footprint to that of 8 Tekels Park and would therefore have no greater impact on this tree. This view is shared by the Council's arboricultural officer. I therefore do not find that this or other trees on site would be affected by the proposal.
20. Tekels Park is a private road, it has a number of informal passing points for vehicles where it narrows. Its nature requires road users to drive slowly with due care and attention. As a result, although the proposal would lead to the reduction of part of a grass verge, there would still be adequate points along the road for cars to pass. Furthermore, the proposal would be likely to attract much less traffic than the existing lawful activity on site. Also, the proposal would include dedicated parking for each dwelling. Furthermore, parking provision would accord with the Council's vehicular and cycle parking guidance and received no objection from the County Highway Authority. I concur with the conclusions of the Highway Authority and find that the proposal would not have an adverse impact on the use of the road for vehicles or pedestrians. Therefore, concerns raised by third parties in regard to the safety of the road, parking standards, vehicular access to existing driveways, traffic attending the proposal and a lack of visitor spaces would not result in a substantial impact on local highway safety.
21. In consideration of living conditions, the proposal would not include side windows to plot F and would be generally set back away from 'The Walled Garden'. Furthermore, front facing first-floor and second floor windows would serve bedrooms and bathrooms. As a result, the proposal would not create an arrangement that would be substantially different to the existing development or place first floor main living areas in a position that would demonstrably overlook existing gardens. Consequently, the proposal would not result in any material overlooking towards adjacent existing neighbouring dwellings.
22. The Bat and Emergence surveys have historically found the presence of bats within the roof voids of the Guest House and Tekels Court. The Wildlife Trust raised no objection to the proposal subject to the adoption of its advice in regard to sensitive lighting, reptiles and biodiversity enhancements. I see no substantive reason not to agree with this evidence. Accordingly, the proposal would not result in an adverse impact on local wildlife subject to the imposition of appropriate conditions.
23. Interested parties have also raised concerns with respect to the development potentially setting a precedent for future proposals. However, each case must be considered on its own merits taking the existing character and appearance of an area into account. The appeal site presents a relatively unique set of circumstances that would be unlikely to be easily duplicated. As such, I am unconvinced that an approval of this scheme would lead to the erosion of the local extensive housing plots in the area with higher density development.
24. Matters raised by interested parties in regard to access rights are exclusively civil matters between landowners.

Conditions

25. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall impose the Council's suggested conditions with some minor amendments and adjustments for clarity.
26. The Council's Environmental Health officer raised no objection to the proposal and did not identify any known contamination on site. Therefore, the Council's contamination condition has not been shown to be necessary for the proposed development to be acceptable in planning terms.
27. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national Permitted Development (PD) rights unless there is clear justification to do so. The plots have relatively large gardens, exceeding the Council's garden size requirements. However, important tree cover and landscape features could be denuded if future extensions were not first considered by the Council. Furthermore, unsympathetic changes to the profile of the roofs could have a significant negative impact on the character and appearance of the area due to the site's largely open setting. As such removal of PD rights would be appropriate in this setting and can therefore be justified.
28. I have amalgamated the Council's suggested 'materials' conditions, requiring compliance with the use of agreed external building materials, with the need for prior agreement of surface materials, for simplicity. Furthermore, I have also adapted and conjoined those conditions that require demolition and construction to be undertaken in accordance with approved details, in connection with the construction method statement, bat mitigation strategy, arboricultural method statement and tree protection fencing. This condition is necessary to ensure that the construction of the approved scheme maintains the trees that contribute to the character and appearance of the area [condition 5].
29. The Council has advised that a one-year implementation period is necessary to maintain SANG capacity for new development in Surrey Heath. I shall therefore limit the approval in accordance with this advice. I have imposed the standard conditions, as advised by the PPG, for clarity and certainty [1 and 2].
30. Conditions with respect to levels, tree protection, landscaping and materials are necessary in the interests of the character and appearance of the area [3, 4, 6, 11, 12 and 13]. Further conditions are necessary, to require the Juliet balconies and screens to plot J, to be obscurely glazed [10 and 18]. It is also necessary for the works to Dunmar to be undertaken in advance of the occupation of plots G, H and J, these three conditions are necessary in the interests of the living conditions of future occupiers [9]. Two conditions are also required in regard to sustainable travel measures for car charging and cycle parking are necessary to satisfy the requirements of policy CP11 of the CS [15 and 17]. A drainage strategy is required to ensure that the proposal meets sustainable drainage objectives of policy DM10 of the CS [16]. As the site is formerly part of the Tekels Castle Estate, the site has the potential to include archaeological finds. As such, a condition is necessary to guard against the possible loss of important archaeological material [14].

31. Details of sensitive lighting and biodiversity enhancements are required due to the previous discovery of bats within the site and area and to comply with policy CP14A of the CS [7 and 8].

Conclusion

32. For the above reasons, the appeal is allowed, and planning permission is granted subject to the appended conditions and the associated Unilateral Undertaking.

Mr Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin no 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: 1092-LP1 rev B – Location Plan, 1092-S01 rev A and SO2 existing site plans, 1092-P01 rev C Proposed Site Plan, 1092-P02 rev A – Plot A - Floor Plans and Elevations, 1092-P03 rev A – Plots B, C, D and E - Floor Plans and Elevations, 1092-P04 rev A - Plot F - Floor Plans and Elevations, 1092-P05 – Plots G, H and J - Floor Plans and Elevations, 06 rev A Proposed Street Scenes – Elevation and Section, 1092-07 – Dumar – Proposed Window Changes, 1092-08 Garages and Bin Store details and 1092-09 rev D – Site Plan – Construction Set-up Plan.
- 3) The development shall be carried out using only the external materials as specified in the submitted application. No surface materials for the car parking spaces areas or footpaths will be used on the site until the plans showing the location of their use together with samples and their details have been submitted to and approved in writing by the Local Planning Authority. Once approved only the agreed surfacing materials shall be used in the construction of the development and completed prior to the first occupation of the plot to which they relate.
- 4) Notwithstanding any information submitted with the application, no foundations or ground floor slabs shall be constructed on site until details of the proposed finished ground floor slab levels of all buildings and the finished ground levels of the site, including roads, private drives, etc, in relation to the existing ground levels of the site and adjoining land (measured from the recognised datum point), have been submitted to and approved in writing by the Local Planning Authority. Once approved the development shall be built in accordance with the approved details.
- 5) The demolition and construction of the development hereby approved shall only be undertaken in accordance with the measures contained in the Construction Methods Statement Rev C (dated 17 June 2020) and associated set-up plan 1092-P09 rev D, the bat mitigation strategy (by Corylus Ecology, dated 2 October 2019), the Arboricultural Method Statement (by GHA Trees Arboricultural Consultancy, dated 16 June 2020) and the tree protection fencing as shown on drawing number 1092-P09 Rev D.
- 6) The new dwellings hereby approved shall not be first occupied until the parking spaces, and turning areas where appropriate, have been laid out within the site and made available for use in accordance with the approved plans. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 7) No external lighting shall be installed on site unless and until a Sensitive Lighting Management Plan and details of the proposed lighting have been submitted to and approved in writing by the local planning authority. The

approved details shall be implemented in full prior to the first occupation of that part of the development to which they relate.

- 8) Prior to the first occupation of any part of the development a scheme of biodiversity enhancements shall be submitted to and approved by the Local Planning Authority. Once approved the scheme shall be implemented in full prior to the first occupation of that part of the development to which they relate and thereafter retained and maintained.
- 9) Prior to the first occupation of plots G, H and J, the approved works to Dunmar shall be implemented in full and thereafter retained.
- 10) Prior to the first occupation of plot J, the opaque privacy screens to the first-floor terrace area, as shown on drawing number 1092-P05, shall be installed and thereafter retained and maintained. Furthermore, the terrace area shall not be extended beyond that shown on the approved floor plan for plot J.
- 11) No trenches, pipe runs for services or drains shall be cited within the root protection area of any retained tree without the express written agreement of the local planning authority.
- 12) A minimum of seven working days before any development, including any works of demolition or site clearance, a pre commencement meeting must be arranged with the arboricultural officer to ensure ongoing compliance with the requirements of the agreed tree protection measures.
- 13) Notwithstanding the provisions of schedule two part one classes A, B, C, D, E and F and Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(or any Order revoking and re-enacting that Order) no extensions, roof alterations, outbuildings, hard surfaces nor boundary treatment/means of enclosure shall be erected or undertaken.
- 14) Should archaeology be found as part of the demolition/construction process the developer shall commission a qualified archaeologist to observe the excavations and record items of interest and finds. A report of that which has been found shall thereafter be submitted to the local planning authority prior to the first occupation of the first completed dwelling.
- 15) The proposed dwellings shall not be occupied until three of the available parking spaces to the front of plots G, H and J are provided with fast charge sockets (current minimum requirements – 7kw Mode 3 with type 2 connector -230v AC 32 Amp single phase dedicated supply) and the remaining dwellings are to be provided with the power supply to provide additional fast charge sockets in accordance with the scheme to be submitted to and approved in writing by the local planning authority, made available for use prior to the occupation of the plot they relate to and thereafter retained and maintained to the satisfaction of Local Planning Authority.
- 16) Prior to the construction of the dwellings hereby approved, a sustainable drainage strategy, incorporating a sustainable urban drainage strategy, shall be submitted to the Local Planning Authority for approval. The development shall thereafter be undertaken in accordance with the

approved measures which shall be retained and maintained to the satisfaction of the Local Planning Authority.

- 17) Prior to the first occupation of the plot to which they relate, details for the secure and covered storage of cycles shall be submitted to the Local Planning Authority for approval. The approved storage facilities shall be provided and made available for use prior to the first occupation of the plots in which they relate.
- 18) Prior to the occupation of plots B-E inclusive, the glazing to the Juliet balconies on drawing number 1092-P03 Rev A shall be completed in obscure glazing to privacy level 5, and thereafter maintained in perpetuity.

End of Conditions