

Appeal Decision

Site visit made on 9 April 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 June 2021

Appeal Ref: APP/M3645/W/20/3261214
Edgehill, Succombs Hill, Warlingham CR6 9JG

- 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 J Owens (Silverleaf Group) against the decision of Tandridge District Council.
 - The application, Ref. TA/2019/1455, dated 6 August 2019 was refused by notice dated 15 April 2020.
 - The development proposed is the demolition of the existing dwelling and the erection of two blocks containing a total of 17 apartments.
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Application for Costs

1. An application for costs was made by Mr J Owens, the Silverleaf Group, against Tandridge District Council. The application is the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and the erection of two blocks containing a total of 17 apartments at Edgehill, Succombs Hill, Warlingham in accordance with the terms of the application Ref. TA/2019/1455, dated 6 August 2019 and subject to the conditions in the attached Schedule.

Main Issues

3. The main issues are (i) the effect of the proposed development on the character and appearance of the area, and (ii) whether the development would provide adequate amenity space for occupiers of the apartments.

Reasons

Character and Appearance

4. Both the Council Officer's report and the Appeal Statement provide helpful descriptions of the appeal site and its setting. From these descriptions, the submissions of the main parties to the appeal, and from my visit to the site and its surroundings, I was able to form a view as to the extent to which the scale and form of the proposed development would respond appropriately to the site and location's opportunities and constraints.
 5. In terms of opportunities, the site is located within the built up area and outside the Green Belt. The site with its area of 0.39ha is of a substantial size and rectangular in shape on a north east / south west axis. And with its corner position at the junction of Succombs Hill and Stuart Road, perimeter
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landscaping and land levels, the existing building effectively stands alone within its garden setting rather than being read with adjoining buildings. This potentially provides some flexibility in both design and scale as regards the need for development to be in keeping with and complement the built form of neighbouring development and the wider local landscape.

6. Furthermore, I agree with the Council's view that the area is of '*mixed character*' with varied forms of flatted development on Succombs Hill to the west and north of the site. And although to the east in Stuart Road there are substantial two storey detached houses on large plots, these do not form a context that would preclude a flats development of some scale on the appeal site.
7. On the other hand, the site has some constraints, with four factors having primacy. Firstly, Edgehill is located on the slope of a hillside and at an elevation sufficient for any substantial development to have the potential to be visible from the bottom of the valley to the south west.
8. This probable prominence is influenced by a second factor, namely that in the immediate vicinity of the appeal site there is a significant change in landscape character in this part of Caterham / Warlingham area. The dividing line between the contrasting landscapes is Stuart Road and the railway line in its cutting. To the north are wooded areas within which there is an extensive area of suburban residential development stretching to Warlingham village. To the south and below Edgehill on the south eastern side of Succombs Hill are open fields, largely devoid of tree cover away from their boundaries, and stretching down to the bottom of the valley.
9. The third constraint is related to the first, and concerns the land levels of the site itself. There is a steep upward slope between its south western boundary with Stuart Road and its north eastern boundary with Dorin Court, a large 6 storey block of flats in extensive grounds. The existing property is accommodated on a plateau in roughly the centre of the site with the slopes to front and rear laid to lawns.
10. The combination of its siting and low profile results in the existing dwelling being for the most part discreet despite its extensive footprint, albeit it can be seen at some distance in views from the south west. However, larger development on the site would result in a combination of land levels and building heights within the site that would limit the options for effective mitigation of its visual impact. In the light of this, the design of any development is a particularly important consideration.
11. Finally, the position of the site close to the carriageway of Succombs Hill and at a junction with Stuart Road and opposite the access road to Gladeside Court, has the potential to make any large development prominent, especially when travelling north eastwards up the hill from the A22 roundabout in the valley.
12. In appraising whether the appeal scheme successfully balances these opportunities and constraints, the test is not one of screening the flats from public view, but to ensure that any development scheme approved would have a scale, and design that would be comfortably assimilated within the residential / wooded hillside character to the north of Stuart Road and the railway line.

13. The 17 apartments proposed would be split into two flat-roofed blocks with the existing access from Stuart Road closed and replaced by a new access from Succombs Hill leading to a parking and amenity area between the two buildings and with associated pedestrian access and communal servicing facilities. The northern block (Block 1) would accommodate 13 of the apartments and be five storeys in height.
14. The proposed building would strongly be rectilinear in design but with step backs from the front and, between floors nos. 3 and 5, stepped in at the flanks so as to create a broadly pyramidal shaped building in terms of views of the primary south western elevation. This design would to a considerable extent reduce the perception of the scale and bulk of Block 1. And in the longer views from further down the hill and in the vicinity of the A22 roundabout, including the first stretches of Caterham bypass and Woldingham Road, it would appear as a building that sits comfortably within the surrounding woodland landscape.
15. Despite being a building of considerable size, I am satisfied that in the closer views from Stuart Road and the nearest section of Succombs Hill the stepped design of Block 1 combined with the pleasing external materials and reinforced perimeter landscaping would mitigate the visual impact and any perception of overdevelopment. The development would compare favourably with Dorin Court in terms of scale and design and the appellant is correct to argue that with its higher ground level and six storey height that building is more prominent than would be the case with the current proposal.
16. Block 2 on the frontage to Stuart Road with its two storey height would be in keeping with its residential context of the road given its modest scale and bulk. I acknowledge the Council's concern that it would be read with Block 1 and increase the perception of an overly large development. However, from the main vantage points to the south west, Block 2 would be set against the frame of Block 1 and with similar design elements that would help to harmonise the two buildings. And as regards the short and long views I consider that the CGIs adequately demonstrate that although the development would be visible, the proposed buildings would not harm the character and appearance of the area.
17. Taking these factors together, I conclude on the first issue that the appeal scheme would not be in harmful conflict with Policies DP7 & DP8 of the Tandridge Local Plan Part Two: Detailed Policies 2014-2029 ('the Local Plan'). In particular, Policy DP7 includes a requirement for development to respect and contribute to the distinctive character, appearance and amenity of the area and not to result in overdevelopment as assessed by a number of factors. Despite its large scale and elevated position, the design and external materials of the development and the proposed landscaping of the site would ensure that the appeal scheme complies with the policy. Local Plan Policy DP8 is also relevant in terms of the thrust of provisos 1 & 2 which have a similar objective to Policy DP7.
18. For the reasons explained there would be similarly be no conflict with Policy CSP18 of the Tandridge District Core Strategy 2008, which includes an objective to protect the wooded hillsides in the built-up areas by ensuring that new development does not adversely affect their character. Finally, Government policy in the National Planning Policy Framework 2019 ('the

Framework') includes Section 12: 'Achieving Well-Designed Places' and I conclude that the proposal would sufficiently meet the requirements of paragraph 127 to be acceptable.

Amenity Space for Occupiers

19. On this issue, the appellants have submitted amended plans as part of the appeal documentation in order to resolve the Council's objections as regards the amenity space that would be available for occupiers of the flats. The Council argues that these effectively evolve the scheme and should be the subject of a fresh application.
20. However, whilst to some extent I take the Council's point, the provision of amenity space for future occupiers of the apartments is not an issue that has been the concern of local residents, nor would I expect it to have been. Having regard to '*the Wheatcroft Principles*,' I do not consider that amendments that show an increase in the amount of external amenity space for the occupiers of the flats would be prejudicial to the interests of third parties. This potential prejudice is the key element of *Wheatcroft*.
21. In terms of the issue itself, in refusing the application the Council was unhappy with both the amount and quality of the communal amenity space and the private amenity areas for five of the proposed flats in Block 1. The main change in the amended plans is the provision of a larger communal amenity space on level ground in the south eastern corner of the site (to an area of 180sqm) as a result of the re-location of parking spaces to the north western boundary of the site.
22. There would also be the provision of a further 123sqm in the form of the shared south facing terrace in Block 1. This increase in area and the reduction of potential conflict between parking, residents' access and leisure provision together with play space, seating and planting as shown on the amended drawings would be a qualitative and quantitative improvement in the amenity space. In respect of the individual flats, the amended plans show additional private amenity areas to the rear of Block 1 for the benefit of Units 6 & 7, whilst the appellant's supplementary appeal statement has set out a number of clarifications as regards the interpretation of the submitted drawings.
23. Taking these amendments into account, I conclude that both the quantity and quality of the communal space would be more than adequate, and in the absence of specific standards it would be in accordance with requirement 8 of Local Plan Policy DP7 and with sub paragraph 127f) of the Framework. As regards the individual flats, I do not regard any of them as providing a private amenity standard below that which it is in the public interest to ensure. The final decision whether the private amenity is adequate and suitable will be a matter for the prospective occupier(s) of an individual apartment.
24. For the above reasons I conclude on the second main issue that on the basis of the amended plans, the quantity and quality of the amenity areas provided for future occupiers is not a reason for withholding planning permission. There would be no harmful conflict with the Council's or Government's policies on residential living conditions. In coming to this conclusion, I consider that the Council was correct to seek amendments to improve the provision and which the appellant provided at the appeal stage.

Other Matters

Housing Land Supply

25. The Council is unable to demonstrate a 5-year supply of housing land within Tandridge District and in these circumstances regard has to be had to the Government's objectives in this regard, including the approach to decision-making in paragraph 11d) of the Framework.
26. In this regard, I concur with the appellant's view that the provision of 16 additional dwellings on the appeal site would be a valuable addition to housing supply and clearly outweigh any perceived harm as a result of the development.

Matters raised in Public Consultation

27. Public consultation on the appeal proposal has resulted in a large number of third party representations, mainly from local residents. Increased traffic and highway safety is by some measure the most raised issue, whilst flood risk is also of concern. I note that these matters are referred to in objections by both the Warlingham Parish Council and Whyteleafe Village Council. There are also a range of other concerns and I have taken all the matters raised into account in reaching my decision on the appeal.
28. However, whilst the proposal may well have an incremental effect on some aspects of some of the concerns, in particular the increase in vehicular movements, I consider that none of the matters raised are such as to warrant any additional reasons for rejecting the development to those cited by the Council. In coming to this view, I have noted that the statutory consultees including the County Highway Authority, the County Council as the Lead Local Flood Authority, and the Environment Agency have raised no objections to the proposal subject to the imposition of conditions on a permission.

Conclusion and Conditions

29. I have concluded in respect of the first issue, the effect of the development on the character and appearance of the area, that the proposal would be acceptable and comply with the Council's development plan and Government policy.
30. I have additionally found in the appellant's favour on the second issue, the adequacy of amenity space for future occupiers, on the basis of amended plans that were submitted in response to the Council's concerns.
31. I shall therefore allow the appeal. The Council has provided a list of conditions to which the appellant has no objection and I also consider that they are reasonable and necessary. I have made only minor amendments to them.
32. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of proper planning. Whilst normally I would list these as part of a condition in this Decision, I consider that in the interests of accuracy, completeness and ease of public scrutiny it is necessary in this case for an up to date list of drawings as now approved, including those submitted in this appeal under the Wheatcroft Principles, to be prepared by the appellant and agreed with the Council. This

should then be added to the Council's case file on its digital planning register to facilitate public inspection of the approved development.

33. Other conditions are needed to make the development acceptable. For highway safety conditions are required to ensure that a suitable access to Succombs Hill is provided; to secure the blocking up of the existing accesses; to provide appropriate vehicle and cycle parking, and to secure a Construction Transport Management Plan. A condition requiring fast charge sockets for each dwelling will promote sustainable transport, whilst surface water drainage provision conditions will safeguard against flood risk on and off site.
34. Conditions requiring samples of external materials for the proposed buildings, the landscaping of the site and tree protection will safeguard visual amenity, whilst a condition stipulating renewable energy provision will reduce carbon emissions in the proposed dwellings. Conditions for sound insulation in the buildings and the obscure glazing of flank windows facing No. 3 Stuart Road will safeguard residents' living conditions as regards noise and privacy respectively. Finally, the Council has suggested two conditions to protect the ecology of the site, including avoiding harm to any badger setts.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall begin not later than the expiration of three years from the date of this Decision;
- 2) The development hereby permitted shall be carried out in accordance with the approved plans as submitted with the application and subsequently amended during the processing of the application and appeal. There shall be no variations from the approved plans and the plans shall be itemised in a Schedule to be agreed in writing with the Council prior to the commencement of the development or within three months of the date of this Decision, whichever is the earlier;
- 3) No part of the development shall be first occupied unless and until the proposed vehicular access to Succombs Hill has been constructed and provided (i) with a means within the privately owned land of preventing water from discharging on to the highway, and (ii) visibility zones of 2.3m x 43m in each direction. Both requirements shall be in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and the visibility zones shall be kept permanently clear of any obstruction exceeding 1.05m in height;
- 4) No part of the development shall be first occupied unless and until existing accesses from the site to Succombs Hill and Stuart Road have been permanently closed and any kerbs, verges and footpaths fully reinstated;
- 5) 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 and cycles to be parked and for vehicles to turn so that they can enter and leave the site in a forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes;
- 6) No development shall commence until a Construction Transport Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall be implemented during the construction of the development in accordance with the following approved details: (i) parking for vehicles of site personnel, operatives and visitors; (ii) loading and unloading of plant and materials; (iii) storage of plant and materials; (iv) a programme of works (including measures for traffic management); (v) measures to prevent the deposition of materials on the highway (including wheel washing to remove mud); (vi) on-site turning for construction vehicles;
- 7) The development hereby approved shall not be occupied unless and until each of the proposed dwellings have been provided with a fast charge socket (current minimum requirements - 7kw Mode 3 with Type 2 connector – 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority and thereafter permanently retained and maintained in accordance with the scheme details;

- 8) The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design shall satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS; the National Planning Policy Framework 2019, and the Ministerial Statement on SuDS. The required drainage details shall include: a) The results of infiltration testing completed in accordance with BRE Digest:365 and confirmation of groundwater levels; b) Evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+ 40% allowance for climate change) storm events, during all stages of the development. The final solution shall follow the principles set out in the approved drainage strategy. Associated storage volumes shall be provided using an infiltration based strategy; c) Detailed drainage design drawings and calculations to include a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.); d) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off the site will be protected; e) Details of drainage management responsibilities and maintenance regimes for the drainage system; f) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational;
- 9) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer shall be submitted to and approved in writing by the Local Planning Authority. This report shall demonstrate that the drainage system has been constructed in accordance with the agreed scheme (unless with minor variations detailed as necessary); provide the details of any management company, and state the national grid reference of any key drainage elements, including surface water attenuation devices or areas; flow restriction devices, and outfalls;
- 10) No development shall take place above ground level until details of the materials (including samples as required) to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 11) (i) No development shall take place above ground level until full details of both hard and soft landscape works (including accommodating for the provision of SuDS) have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include means of enclosure / car parking layouts / other vehicle and pedestrian access and circulation areas / hard surfacing materials / external lighting (including bat sensitive lighting) / minor artefacts and structures (including outdoor furniture, play equipment, refuse and other storage units, signs and safety lighting for pedestrians);

(ii) Details of soft landscape works shall include all proposed and retained trees, hedges and shrubs, ground preparation, planting specifications and ongoing maintenance, together with details of areas to be grass seeded or turfed. Planting schedules shall include details of species, plant sizes and proposed numbers / densities.

(iii) All new planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion or occupation of any part of the development (whichever is the sooner) or otherwise in accordance with a programme to be agreed. Any trees or plants (including those retained as part of the development) which within a period of five years from the completion of the development die, are removed, or in the opinion of the Local Planning Authority become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation. The hard landscape works shall be carried out prior to the first occupation of the development;

- 12) No demolition or building operations shall commence until the tree protection measures detailed within the approved Tree Protection Plan (TPP01) and Arboricultural Method Statement have been implemented. Thereafter these measures shall be retained and any specified staging works strictly adhered to throughout the course of development with no variation without the written agreement of the Local Planning Authority. In addition to the above the following restrictions shall be strictly observed unless otherwise first agreed in writing by the Local Planning Authority: (a) no bonfires shall take place within the Root Protection Areas (RPAs) or in a position where heat could affect foliage or branches; (b) No further trenches, drains or service runs shall be sited within the RPA of any retained trees; (c) No further changes in ground levels or excavations shall take place within the RPA of any retained trees;
- 13) No development shall take place above ground level until details demonstrating how the development would satisfy the 10% reduction of carbon emissions through renewable resources have been submitted to and approved in writing by the Local Planning Authority. The renewable energy provision shall thereafter be implemented and retained in accordance with the approved details;
- 14) No development shall take place above ground level until a report demonstrating how the development would meet the standards in BS:8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings has been submitted to and approved in writing by the Local Planning Authority. The sound insulation provision shall thereafter be implemented and retained in accordance with the approved details;
- 15) Before the development hereby approved is first occupied, the flank windows to Block 2 facing No. 3 Stuart Road shall be fitted with obscure glass and shall be non-opening, and thereafter permanently retained as such;

- 16) The development shall be carried out wholly in accordance with the Ecological Enhancements and Recommendations identified in the Preliminary Ecological Appraisal and Phase II Ecological Site Survey;
- 17) Prior to the commencement of development, a survey shall be undertaken by a qualified ecologist to determine any evidence of badger setts on the site. If any badger activity is detected a suitable course of action shall be submitted to and approved in writing by the Local Planning Authority to prevent harm being caused to this species. During overnight periods during construction excavations shall be provided with a ramped means of escape; open pipework shall be capped and stockpiles of soft materials shall be covered in a method that prevents badgers excavating new setts.