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## Appeal Decision

Site Visit made on 13 July 2021

**by L Douglas BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 August 2021**

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**Appeal Ref: APP/M3645/W/21/3266296**

**21 Whyteleafe Hill, Whyteleafe CR3 0AG**

- 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 Ms Xiaohan Gao against the decision of Tandridge District Council.
  - The application Ref TA/2020/1238, dated 9 July 2020, was refused by notice dated 4 December 2020.
  - The development proposed is "Demolition of the existing dwelling. Erection of two storey building with accommodation in the roofspace comprising of 4 x 1 bed and 5 x 2 bed flats with vehicular access from Hornchurch Hill, provision of associated parking and landscaping"
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### Decision

1. The appeal is allowed and planning permission is granted for "Demolition of the existing dwelling. Erection of two storey building with accommodation in the roofspace comprising of 4 x 1 bed and 5 x 2 bed flats with vehicular access from Hornchurch Hill, provision of associated parking and landscaping" at 21 Whyteleafe Hill, Whyteleafe CR3 0AG in accordance with the terms of the application, Ref TA/2020/1238, dated 9 July 2020, subject to the attached Schedule of Conditions.

### Preliminary Matters

2. I have taken the description of proposed development from the Council's decision notice as this is a clearer and more precise description of what is shown in the proposed plans than that used in the application form. The appellant has used this description within their appeal form, confirming it is the development they are seeking planning permission for.

### Main Issues

3. The main issues are: (i) the effect of the proposal on the character and appearance of the area; (ii) the effect of the proposal on the living conditions of neighbouring residents; and (iii) whether the proposal would provide acceptable living conditions for future occupants, with particular regard to outside space.

### Reasons

#### *Character and Appearance*

4. The appeal site is a large corner plot occupied by a detached two storey house and garage, with off-street parking to the front and a substantial garden to the rear. It is in a prominent position and at a raised level from the highway;

levels rise towards the rear of the site, and I noted levels within neighbouring rear gardens rise further, to the west.

5. It is proposed to excavate part of the site and erect a three-storey building containing four one-bedroom flats and five two-bedroom flats, with thirteen parking spaces and a new vehicular access from Hornchurch Hill, and associated communal garden and bin and bicycle stores. The Council's objection in relation to the first main issue relates to a claimed 'overdevelopment' of the site and the proposed expanse of hard surfacing with limited scope for soft landscaping. The Council have confirmed they do not consider the density of the proposal to be inappropriate but are concerned by the proposed spread of built form and its proximity to the site's boundaries.
6. The plans showing proposed elevations include an annotated outline of the existing dwelling, confirming the extent of excavation necessary to ensure the proposed building would not exceed the ridge height of the existing dwelling. Substantial landscaping strips would be retained along the Whyteleafe Hill boundary and the rear boundary shared with 2 Hornchurch Hill, but there would be a lack of opportunities for significant landscaping along most of the Hornchurch Hill elevation of the site, allowing clear views of the proposed building. The Council have confirmed none of the existing trees are worthy of protection, and in this suburban location the resulting views of the proposed parking area and buildings would not be out of character. There would remain some opportunities for a small amount of soft landscaping along the Hornchurch Hill elevation, similar to that seen in front of flats on the opposite side of the road, which would complement the proposed flint boundary wall, details of which could be required by condition.
7. Much of the site would be given over to hardstanding in the form of a communal car park, footpaths and private garden areas. This would not be uncommon for a development containing flats, and I noted a number of other open parking areas in the locality. The landscaping areas proposed to skirt the site would be appropriate in size compared to the extent of hardstanding for this location, and although they would not completely shield views of the parking area, this change in the site's appearance would not be particularly harmful to the existing character or appearance of the area.
8. The proposed building would be of significant mass in comparison to the neighbouring properties immediately to the north and west of the appeal site, but this would also not be out of character with the site's wider surroundings which include buildings containing flats on the opposite side of Hornchurch Hill and the more substantial school and church buildings on the opposite side of Whyteleafe Hill. The proposed building would be located close to the site's side boundaries, but space would remain for access and some form of low-level soft landscaping. This would ensure the proposal presents frontages on both main elevations which reflect others seen in the area and would not appear unduly cramped, overdeveloped, or out of scale in the context of the site and its surroundings.
9. The proposal would not therefore cause unacceptable harm to the character or appearance of the area and would accord with Policy CWP 18 of the Council's Core Strategy<sup>1</sup>, Policies DP7 and DP8 of the Council's Local Plan<sup>2</sup>, and Policies

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<sup>1</sup> Tandridge District Core Strategy (2008)

<sup>2</sup> Tandridge Local Plan – Part 2: Detailed Policies (2014)

CCW3, CCW4 and CCW5 of the Caterham, Chaldon and Whyteleafe Neighbourhood Plan<sup>3</sup> ('the CCWNP'). These require, amongst other things, development to reflect and respect local character, setting, context and streetscape, without resulting in overdevelopment or unacceptable intensification by reason of scale, form, bulk, height, spacing, density or design.

10. The Council have referred to Policy CSP 21 of the Core Strategy and Policy CCW11 of the CCWNP. However, neither of these policies appear to be directly relevant to the Council's first reason for refusal and the Council's submissions do not explain why they consider these policies to be of any relevance. Policy CSP 21 seeks to protect landscapes and countryside, but the appeal site is located within a suburban setting. Policy CCW11 relates to development within local green spaces, but the appeal site is not located within a designated local green space.

#### *Living Conditions of Neighbours*

11. The proposed building would be located closer to the boundary shared with 23 Whyteleafe Hill than the existing dwelling, behind a narrow landscaping strip and a pedestrian access path. It would project beyond the rear elevation of No.23, but most of the projection would be set away from that shared boundary. The part of the building closest to No.23 would have a single storey element, limiting any loss of outlook from that neighbouring property.
12. The orientation and layout of the buildings would prevent any unacceptable overshadowing or loss of light sufficient to harm to the living conditions of any neighbours. The proposed window layout would include obscure glazing to non-habitable rooms above ground floor level on the west elevation, ensuring they would not result in any unacceptable levels of overlooking when subject to a condition restricting their opening. The positioning of these windows, broadly opposite the side elevation of the house at No.23 would be unlikely to result in any unacceptable levels of perceived overlooking.
13. The proposal would be clearly visible from neighbouring properties to the west due to the size and positioning of the proposed building and the rising land levels in that direction, which mean the garden areas of Nos. 23 and 25 are elevated from the land levels within the appeal site. Views from within neighbouring buildings would be less clear, but the impact of the proposal's built form would be unavoidable. Seen from gardens to the west, the blank side elevation of the proposal's rear projection would replace the existing pleasant open views of the appeal site's eastern boundary planting. This would be disappointing for those neighbours but would not result in any unacceptable loss of outlook considering the distances and land levels involved, and the suburban setting.
14. The proposal would not therefore cause any unacceptable harm to the living conditions of neighbouring residents, in accordance with Policy CSP 18 of the Council's Core Strategy and Policy DP7 of the Council's Local Plan. These require, amongst other things, development to avoid significantly harming the amenities of the occupiers of neighbouring properties.

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<sup>3</sup> Caterham, Chaldon and Whyteleafe Neighbourhood Plan 2018 to 2033 (2020)

### *Living Conditions of Future Occupants*

15. All nine of the proposed flats would have access to some form of outside amenity space, either in the form of private gardens or balconies. Two landscaped areas are annotated as 'Communal Garden' on the submitted plans, but the positioning, size and planting of the area along the Whyteleafe Hill boundary all make this landscaped area unlikely to be capable of being used as any meaningful communal garden space. The larger communal garden to the rear, although relatively small in comparison to the built form and parking areas, would be of sufficient size and appropriate positioning to be capable of being used by residents in a meaningful manner.
16. The proposed private gardens and balconies would vary in size, and although the balconies serving Units 6 and 7 would be smaller than others and much of the balcony serving Unit 9 would have reduced headroom, they would be proportionate to the sizes of the two-bedroom flats, considering the communal garden area to the rear and the site's proximity to Whyteleafe Recreation Ground. Future residents would not be reliant on nearby public open space, but this would complement the proposed balconies and gardens.
17. The proposal would therefore provide suitable amenity space, creating acceptable living conditions for future occupants in accordance with Policy DP7 of the Council's Local Plan. This requires, amongst other things, proposals to provide a satisfactory environment for future occupiers, including appropriate individual and communal amenity and garden areas proportionate to the size of residential units.
18. The Council have referred to Policy CSP 18 of their Core Strategy within the third reason of refusal, but no information has been presented to convince me that this policy is directly relevant to this particular issue.

### **Other Matters**

19. A number of representations have been made by interested parties regarding a range of issues, some of which have been addressed in the Council's Officer Report. That report sets out consultation responses from the Highway Authority and the Flood Authority, who have recommended planning conditions to ensure the proposal does not lead to any highway safety or drainage concerns. On those and other matters, I have not been presented with any evidence to lead me to any conclusions different to those set out in the Officer Report.
20. Unsubstantiated claims submitted by interested parties relating to there being too much building work in the area do not affect my reasoning. I have not been presented with any evidence which demonstrates the proposal would have any unacceptable impact on local infrastructure or air quality. These are not issues that the Council has raised any concerns in respect of, and in the absence of any evidence to convince me otherwise, I do not consider the extent of development or tree removal proposed to be significant enough to have any demonstrable adverse effect in these regards.

### **Conditions**

21. The Council have provided a list of suggested conditions and I consider all of those to be reasonable and necessary, subject to some of them being amended. It is necessary to attach a condition requiring the commencement of

development within the relevant timeframe and a condition specifying the approved plans, in the interests of clarity and enforcement.

22. Prior to the commencement of any development at the site, it is reasonable and necessary to require approval of samples of external facing materials, and details of a Construction Management Plan (CMP), compliant surface water drainage scheme, and hard and soft landscaping scheme. External facing materials samples are necessary to ensure the development would be finished appropriate to its surroundings in this prominent location; details of a CMP are necessary to ensure highway safety throughout the construction process due to the location of the site on a crossroads close to a school, in a predominantly residential area with high traffic movements; details of the water drainage scheme are necessary due to the comments of the Flood Authority concerning localised flood events, to ensure the proposal would not increase flood risk; and full details of a hard and soft landscaping scheme are necessary to ensure the development would be finished appropriate to the site's setting.
23. Details concerning the siting of photovoltaics are necessary to ensure the proposal would accord with the development plan with regard to on-site renewable energy provision. Rather than requiring the approval of those details prior to the commencement of development, it is reasonable to require them prior to the commencement of works above ground level.
24. Prior to the first occupation of the proposal, details concerning bicycle parking facilities, electric vehicle charging facilities, and a drainage verification report are required for approval by the Council. These are reasonable and necessary to promote sustainable means of transport and ensure a suitable drainage scheme has been implemented, in accordance with the development plan.
25. Conditions relating to highway safety matters, including the closing off of the existing access from Whyteleafe Hill and the provision of the proposed vehicle access and visibility splays on Hornchurch Hill are reasonable and necessary in the interests of pedestrian and highway safety. The Council have suggested the Whyteleafe Hill access should be closed off prior to the commencement of development, but this would be unreasonable, as no other access onto to site would exist until after development has commenced on the approved Hornchurch Hill elevation access. I therefore consider it appropriate to require the closing off of the Whyteleafe Hill access prior to the first occupation of any flat. The comments of the Highway Authority confirm they consider construction vehicles entering or exiting the site through the existing access of Whyteleafe Hill would be dangerous. Any access to the site from Whyteleafe Hill during construction could be controlled through the CMP, to be approved by the Council as set out above.
26. A condition requiring the windows on the upper floors of the west elevation of the proposal to remain obscure glazed and non-opening up to a height of 1.7m from internal finished floor height is required to prevent unacceptable levels of overlooking and to protect the living conditions of neighbouring residents. No details of the specification of obscure glazing to be used have been provided and these will be required to be approved prior to their installation.

## **Conclusion**

27. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*L Douglas*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not 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: VA-0240-XX-GA-A-PL-0150 REV G, VA-0240-XX-GA-A-PL-0155 REV F, VA-0240-XX-GA-A-PL-2001 REV H, VA-0240-XX-GA-A-PL-0151 REV H, VA-0240-XX-GA-A-PL-2000 REV F, VA-0240-XX-GA-A-PL-2002 REV F.
- 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for: the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding, where appropriate; delivery hours; a programme of works (including measures for traffic management); measures to prevent the deposit of materials on the highway; the use of banksmen; no HGV movements to or from the site between the hours of 08:30 – 09:15 and 15:15 – 16:00 and arrangements to ensure no HGVs park or wait on Whyteleafe Hill or Hornchurch Hill between these times; and restrictions on access to and from the site through the existing Whyteleafe Hill access. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 5) Part (i) No development shall 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 must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and 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. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate to be agreed with SCC as LLFA.
  - 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 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.

Part (ii) The development shall be carried out in accordance with the approved surface water drainage scheme and a verification report carried out by a qualified drainage engineer shall be submitted to and approved by the local planning authority prior to the first occupation of any dwelling hereby permitted. The verification report shall demonstrate that the approved surface water drainage scheme has been fully implemented in accordance with the details approved, or explain any minor variations, and provide details of any management company and state the national grid reference of any surface water attenuation devices/areas, flow restriction devices and outfalls.

- 6) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: proposed finished levels or contours; means of enclosure and retaining structures; boundary treatments; vehicle parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, etc.). 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. 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 first 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 5 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 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.
- 7) No development above ground level shall commence until details of the siting of the photovoltaics have been submitted to and approved in writing by the Local Planning Authority. The photovoltaics shall achieve a 10% reduction in carbon dioxide emissions. The photovoltaics shall thereafter be installed and retained in accordance with the approved details.

- 8) The development hereby permitted shall not be first occupied until the existing access to the site from Whyteleafe Hill has been permanently closed, as shown on plans VA-0240-XX-GA-A-PL-0155 REV F and VA-0240-XX-GA-A-PL-2002 REV F, and any kerbs, verge, and footway fully reinstated.
- 9) The development hereby permitted shall not be first occupied until details of a scheme showing visibility splays to the proposed Hornchurch Hill elevation have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted and thereafter the visibility splays shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.
- 10) The development hereby permitted shall not be first occupied until details of secure bicycle parking facilities for nine bicycles have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted. The secure bicycle parking facilities shall thereafter be retained and kept available at all times for the parking of bicycles.
- 11) The development hereby permitted shall not be first occupied until details of at least two parking spaces with fast charge sockets (current minimum requirement: 7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby permitted. The fast charge sockets shall thereafter be retained.
- 12) The building hereby permitted shall not be first occupied until the windows above ground floor level on the west elevation have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.