

Appeal Decisions

Site visit made on 20 December 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal A Ref: APP/Y3615/W/21/3271404

3 Albury Road, Guildford GU1 2BZ

- 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 R Martin on behalf of Phoenix Godalming Ltd. against the decision of Guildford Borough Council.
 - The application Ref 20/P/01754, dated 9 October 2020, was refused by notice dated 15 December 2020.
 - The development proposed is construction of a terrace of four dwellings with associated widening of existing vehicular and pedestrian access, and parking.
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Appeal B Ref: APP/Y3615/W/21/3283938

3 Albury Road, Guildford GU1 2BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Martin on behalf of Phoenix Godalming Ltd. against the decision of Guildford Borough Council.
 - The application Ref 21/P/00760, is dated 5 April 2021
 - The development proposed is Construction of two detached dwellings with associated widening of existing vehicular and pedestrian access with provision of bin collection point, and parking.
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Decisions

1. Both appeals are dismissed, and planning permission is also refused for Appeal B.

Main Issues

2. Appeal B follows the failure to give notice within the prescribed period of a decision for the planning application. Despite this, evidence has been provided by the Council which identifies their reservations with the proposal. Accordingly, on the basis of the evidence before me, the main issues that are common to both appeals are:
 - i) the effect of the proposal on the character and appearance of the surrounding area;
 - ii) whether the proposal would make suitable provision for refuse storage and collection;

- iii) the effect of the proposal on the Thames Basin Heaths Special Protection Area.
3. In addition, the following main issues are applicable to Appeal A:
- iv) the effect of the proposal on local ecology; and
 - v) the effect of the proposal on the living conditions for the occupants of 3 Albury Road.

Reasons

Character and Appearance

4. The appeal site represents an undeveloped parcel of land to the rear of No 3 Albury Road, itself a substantial and imposing building. Vehicular access would be provided by an existing route between buildings, albeit one that would be widened. The rear boundary is shared with a dwelling known as Holywell, one of a number of large, detached properties accessed from Ferndown Close. This development is very apparent when stood within the appeal site, as is a tall garage structure which encloses much of the south eastern boundary of the site.
5. Due to the presence of development within Ferndown Close, the appeal site does not represent a secluded parcel of land within an undeveloped area. The pattern of development is such that the site is bounded by prominent buildings and this has a direct influence on how the appeal site is experienced. Although undeveloped, the site does not form part of a spacious environment. Instead, it is a parcel of land primarily enclosed by built form. Accordingly, in my judgement, in its current form the appeal site makes a somewhat neutral contribution to the character and appearance of the surrounding area.
6. Appeal A would introduce a terrace of four dwellings onto the site. Although built form is prevalent around the appeal site, individually, the dwellings would have a narrow plot width, and collectively, they would introduce a wide building onto the site. Due to the form of the proposal, the dwellings would conflict with the prevailing urban grain. Surrounding buildings are typically detached with space about them. Terraced dwellings would therefore be demonstrably at odds with the existing pattern of development. The proposal would lack space about the dwellings and introduce an incongruously intense form of development in an environment characterised by detached properties. I note the density analysis presented by the appellant, however, the proposal would be at odds with the prevailing grain and pattern of development which would be to the detriment of the character and appearance of the area.
7. In contrast, Appeal B would be more sympathetic to the existing pattern of development. The proposal would introduce two detached dwellings of comparable form and siting to neighbouring houses, particularly those to the north east of the site. As a consequence, the layout of the proposed dwellings would assimilate well with surrounding development. They would not represent an overly intensive use of the land but rather carry on the established pattern of development found to the north east of the site. In this respect, the proposal would be sympathetic and complementary to the surrounding built environment.

8. For the reasons identified above therefore, I conclude that Appeal A would harm the character and appearance of the surrounding area. It would therefore fail to comply with Policies H1 and D1 of the Guildford Borough Local Plan: Strategy and Sites (2019) (LP), and Saved Policy G5 of the Guildford Borough Local Plan (2003) (SLP), as well as guidance contained within the Residential Design Guide (2004) and the National Design Guide (2019). Taken together, these seek amongst other things, high quality design which responds to local character.
9. However, I also conclude that Appeal B would not harm the character and appearance of the area. On this basis, it would comply with the Policies identified above.

Refuse Storage and Collection

10. Appeal A was refused on the basis of the proposal failing to make any provision for bin storage or turning space for a refuse lorry. However, through the appeal, a revised site layout has been provided which demonstrates a bin storage area close to the main highway, as well as bin storage areas within the private amenity spaces with rear access. As a consequence, there would be no need for a refuse lorry to enter the site, with the requirement being that future occupants presented their bins on the necessary days.
11. I note the Council's reservations regarding this information being provided through the appeal. However, the revised layout alters the proposal very little and as a consequence, I am satisfied that it can be accepted.
12. The proposed refuse collection point would be in close proximity to the main road. However, the evidence before me requires such provision to be located within 5 metres of the point where the collection vehicle would stop. The drawings before me are not dimensioned but based on my observations on site, the proposed location, which is also the same for Appeal B, would be in excess of 5 metres. Accordingly, the proposed arrangement would not comply with the Council's Guidance on the storage and collection of household waste for new developments.
13. On this basis, I conclude that both proposals would fail to make adequate provision for refuse storage and collection. They would therefore fail to comply with Policy D1 of the LP which requires high quality design which meets the needs of all users.

Thames Basin Heaths Special Protection Area

14. The appeal site is located within the 400m – 5km buffer zone of the Thames Basin Heaths Special Protection Area (SPA). The SPA is a network of heathland sites and provides a habitat for three internationally important bird species: Woodlark, Nightjar, and Dartford Warbler. Based on the evidence before me, these birds nest on or near the ground and consequently, are very susceptible to predation and to disturbance from informal recreational use, especially walking and dog walking.
15. Due to the location of the appeal site, the requirements of the Conservation of Habitat and Species Regulations 2017 apply (the Regulations). This requires that I, as the competent authority, must ensure that there are no significant adverse effects from the proposed development, either alone or in combination

with other projects, that would adversely affect the integrity of the European Sites.

16. The proposal would increase the local population in the area which would likely increase recreational use of the SPA. Therefore, taking a precautionary approach, and when combined with other development within the area, I am satisfied that the proposal would result in an increase in such recreational activity which would lead to a likely significant adverse effect on the integrity of the SPA.
17. Due to this effect, the Regulations place a duty on competent authorities to make an appropriate assessment of the implications of the development proposed in view of the site's conservation objectives. On this basis, the Council have an adopted Supplementary Planning Document which provides a framework by which developers can provide or contribute to delivery, maintenance and management strategies which can mitigate the impact of development. This essentially involves a financial contribution secured through a Section 106 Legal Agreement.
18. Despite this, neither appeal has been accompanied by the necessary legal agreement. I note that the evidence states that legal agreements are being progressed. However, this has been a known issue to the appellant for some time, particularly with regard to Appeal B, so ample time has been provided for the necessary agreements to be substantially further through the necessary drafting requirements.
19. In the absence of the necessary legal agreements, suitable mitigation could not be provided. Consequently, taking a precautionary approach, I conclude that both appeals would lead to a likely significant adverse effect on the integrity of the SPA. They would therefore fail to comply with Policy P5 of the LP and Saved Policy NRM6 of the South East Plan, which together establish the requirements for development effecting the SPA.

Local Ecology

20. Planning permission was originally refused for Appeal A due to the lack of ecological information to accompany the proposal. However, the appeal has been supplemented by evidence provided by AAe Environmental Consultants. The Council have reviewed this evidence and appear to agree with its findings. On the basis of the evidence before me, I have no reason to disagree.
21. However, the refusal reason also referred to the provision of a net gain in biodiversity on the site and the evidence provided by the appellant is less categoric on this matter. Despite this, in my judgement, the evidence provided in support of the proposal demonstrates a good understanding of the ecological value of the site and highlights areas where this could be improved. On this basis, I am satisfied that a net gain could be delivered through the use of a suitably worded planning condition, as suggested by the appellant.
22. Accordingly, subject to such a condition, I conclude that Appeal A would not harm local ecology. It would therefore comply with Policy ID4 of the LP which seeks to maintain, conserve and enhance biodiversity.

Living Conditions – 3 Albury Road

23. The siting of the terrace of houses proposed in Appeal A would result in the flank wall of the building being close to the south west boundary of the appeal site. This boundary forms the rear boundary of the land associated with No 3 Albury Road, and the existing property has numerous windows which look towards the appeal site.
24. However, the extent of the open space to the rear of No 3 would be such that a reasonable separation distance would remain. In my judgement, the level of separation would be sufficient to ensure that outlook would not be unduly compromised. It would change, but I am satisfied that this would not be to such an extent that it would be harmful.
25. Consequently, I conclude that Appeal A would not cause harm to the living conditions for the occupants of No 3. It would therefore accord with Saved Policy G1(3) of the SLP which seeks to protect the amenities enjoyed by the occupants of buildings.

Conclusion

26. I am satisfied that Appeal A would not harm local ecology or the living conditions for neighbouring properties. However, this does not alter or outweigh my findings in relation to the other main issues, all of which weigh heavily against the appeal.
27. Although I have found that Appeal B would not harm the character and appearance of the surrounding area, the shortcomings regarding refuse collection and the effect on the SPA significantly and demonstrably outweigh this matter.
28. Consequently, for the reasons identified above, both appeals are dismissed, and planning permission is refused for Appeal B.

Martin Chandler

INSPECTOR