



Appeal Decision

Site visit made on 24 January 2022

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/Y3615/W/21/3268856

Land at May and Juniper Cottages, Ash Green Road, Ash Green, Guildford GU12 6JH

- 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 approval of details required by a condition of a planning permission.
 - The appeal is made by Mr Alan Durrans of Bloor Homes Ltd against Guildford Borough Council.
 - The application Ref 20/D/00099/2, dated 21 August 2020, sought approval of details pursuant to condition No 14 (iv) of a planning permission granted on 18 February 2020.
 - That permission relates to a development of 100 dwellings (including 40 affordable homes) with access to be determined, with associated garages, parking, open space, landscaping and play areas (layout, scale, appearance and landscape to form the reserved matters).
 - The details for which approval is sought relate to the provision of a footway from the site access to Foreman Road.
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Decision

1. The appeal is allowed and the footway details submitted pursuant to condition no. 14 (iv) attached to outline planning permission Ref 18/P/02308 granted on 18 February 2020, in accordance with the application dated 21 August 2020, are approved.

Applications for costs

2. An application for costs was made by Bloor Homes Ltd against Guildford Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. The Council is not seeking to defend the appeal and has advised that the submitted documents are adequate to partially discharge the condition. For the avoidance of doubt, the application comprises a covering letter together with drawing nos. A294-AGR-101 Rev P1 and A294-AGR-710 Rev P1.

Main Issue

4. The main issue is whether the submitted footway details are adequate to discharge part (iv) of the condition.

Reasons

5. Outline planning permission has been granted for a scheme of 100 dwellings and this permission is subject to various conditions. Condition no. 14 requires the implementation of a package of highway measures, prior to first occupation

and in accordance with details to be submitted to and approved in writing by the local planning authority. Part (iv) of the condition states that 'a 1.5 m footway shall be provided from the site access to Foreman Road in accordance with Drawing No. 16072-03, unless alternative pedestrian access can be achieved through the adjacent development (Ash Manor)'.

6. The Ash Manor development does not exist and, whilst that site has been the subject of two planning applications and a quashed planning permission, there is no information before me to suggest that it has the benefit of a live planning permission. Even if permission could be achieved, the timing of construction is unknown. The appellant has no control or interest in the land which further adds to the uncertainty over whether a pedestrian access can ever be achieved through an adjacent development to serve their scheme.
7. Notwithstanding any concerns over its environmental impact, the footway shown on Drawing No. 16072-03 has been approved by the local planning authority and it forms part of the outline planning permission. The Council accepts that the submitted plans accord with that drawing and does not raise any concerns regarding the detail. I have no reason to take a different view. Consequently, I consider that condition no. 14 (iv) should be discharged. This would not preclude an alternative set of plans being considered under a fresh application, should it become clear that a connection through an Ash Manor development is achievable within the timeframe of the permission.
8. Residents state that they were unaware of Drawing No. 16072-03 at the point of permission being granted. The question of whether the condition was lawfully imposed is not relevant to my determination of the appeal. That would be a matter for the courts, although I note that an application for judicial review has already been refused. Many of the comments from third parties address the principle of a footway along the northern side of Ash Green Road. However, the Council has already agreed to the footway route and condition no. 14 is simply seeking confirmation of the detail prior to a S278 agreement.
9. I note that since the appeal was lodged planning permission has been granted¹ for an alternative footway arrangement which minimises damage to trees and hedging along Ash Green Road. The appellant has indicated their intention to implement the revised scheme and will in due course be making an application to vary the wording of condition no. 14 (iv) to accommodate the new plans. However, those plans exist independently of the outline permission and do not constitute a pedestrian access through the Ash Manor site. Accordingly, their existence would not form a reason to dismiss the appeal.
10. For the reasons given above I conclude that the appeal should be allowed and the submitted details approved.

Robert Parker

INSPECTOR

¹ Council Ref 21/P/01166