
Appeal Decision

Site visit made on 28 February 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 March 2022

Appeal Ref: APP/Y3615/W/21/3282360

20 The Street, West Horsley, Leatherhead, Surrey KT24 6AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Brookworth Homes Limited against the decision of Guildford Borough Council.
 - The application Ref 21/P/00970, dated 23 April 2021, was refused by notice dated 21 June 2021.
 - The application sought planning permission for *the erection of 23 dwellings (Use Class C3), modified vehicle and pedestrian access off The Street together with internal roads, car parking, areas of hardstanding, and associated landscaping - all existing buildings and structures including No 20 The Street to be demolished* without complying with a condition attached to planning permission Ref 20/P/01273, dated 22 December 2020.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: FA19-1756-050 E; FA19-1756-063 E; FA19-1756-064 E; FA19-1756-100 REV B; FA19-1756-101 REV B; FD19-1756-102 REV B; FD19-1756-103 REV A; FD19-1756-104 REV A; FD19-1756-105 REV A; FD19-1756-106 REV B; FD19-1756-107 REV B; FD19-1756-108 REV B; FD19-1756-109 REV B; FD19-1756-110 REV B; FD19-1756-111 REV B; FD19-1756-112 D; FD19-1756-113 REV D; FD19-1756-114 REV A; FD19-1756-115 REV A; FA19-1756-116 REV D; FA19-1756-117 REV D; FA19-1756-118 REV C; FA19-1756-119 REV C; FD19-1756-120 REV B; FD19-1756-121 REV B; FD19-1756-122 REV A; FD19-1756-123 REV A; FD19-1756-124 REV A; FD19-1756-125; FD19-1756-130 REV A; FD19-1756-131 REV A; FD19-1756-132 REV A and FD19-1756-133 REV A
 - The reason given for the condition is: To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of precision and clarity I have taken the description of the proposal in the banner heading above from the description of development set out in application 19/P/01210. This was the original description of the proposed development but was not carried forward in full into application 20/P/01273¹, which was a standalone permission that granted alterations to the site layout and appearance of the dwellings.

¹ This permission is described as *variation of condition 2 of planning application 19/P/01210 approved 18/11/19 to allow changes to the site layout and appearance of the dwellings* – however, the problem with this approach is that it does not refer to any development and the proposal is not strictly a variation, as a new standalone permission was created.

3. Allowing this appeal would have created a new standalone planning permission. Therefore, a deed of variation would have been necessary to ensure the planning obligations presumably secured as part of application 20/P/01273 were carried over. The Council refused the appeal scheme in the absence of a deed of variation. The appellant has subsequently submitted such a deed. On the back of this the Council has removed its objection. Hence, this matter requires no further consideration as it is no longer a point in contention.

Background and Main Issue

4. Planning permission was granted on the 18 November 2019 for the erection of 23 homes. A subsequent standalone alternative permission was granted on the 22 December 2020 for a similar scheme. I observed that works have commenced and the garage at Plot 12 constructed. The 2020 permission included Condition 1, which states the development shall be carried out in accordance with the approved plans. The appellant is seeking an alternative to the approved plans in respect of the garage at Plot 12. The intention of this 'minor material amendment'² would be to relocate the garage from next to the house at Plot 12 to a new location within an adjacent area approved for soft landscaping. The Council refused the application due to concerns this alteration would harm the character and appearance of the area.
5. Accordingly, the main issue in this appeal is the effect of the proposed minor material amendment on the character and appearance of the area.

Reasons

6. Plot 12 is located towards the centre of a compact residential development that is currently under construction. It is located prominently within the scheme at a bend in the internal road and at the entrance to Phase 2, which has commenced. The garage at Plot 12 is simple in form and recessively placed back from the front of the house in a way that permits a clear hierarchy between structures. This arrangement is replicated at other plots within the development that have garages. As a result, there is a rhythm to the emerging street scene.
7. The location of the planned landscaping area between Plots 12 and 13 appears carefully designed as it is positioned broadly in the centre of the site and would mirror a similar space across the road. As a result, the trees planted in this space would provide a pleasant focus point to the development as they mature. This needs to be considered in the context of the National Planning Policy Framework (the Framework), which now requires tree lined streets. The landscaping area is particularly important in this instance as it would provide a softening relief in an otherwise tightly formed development, especially as the drawings show that it would be delineated by a hedge in addition to the trees.
8. Relocating the garage in the way proposed would leave no space for the planned hedge and would also split the landscaping area in two. These factors would seriously diminish its ability to provide relief to the development. The garage would also have an unusual orientation and exhibit a form untypical of others elsewhere in the estate. It would therefore appear as a contrived and strident feature in a prominent location. This would be the case despite the

² See Planning Practice Guide Paragraph: 013 Reference ID: 17a-013-20140306

material pallet proposed. This would harm the quality and rhythm of the emerging street scene and thus the character and appearance of the area.

9. In coming to this finding, I accept that the garage would not be prominent in views from land outside the development. However, the appeal scheme is creating a new section of town scape and proposals within it should be considered in this vein. The Framework states that all new development should be visually attractive, beautiful and establish a strong sense of place using the arrangement of streets buildings an effective landscaping. As a result, the internal street scene of a development should be of a high quality. The appeal scheme, however, would harmfully erode the quality of the development.
10. The amended scheme would still enable the provision of two trees, but these would be either side of the garage rather than within a clearly defined landscaped area and therefore would not have the same important and pleasing softening effect as the approved layout. Nor would they screen the repositioned garage. The Framework is clear that new development should not be materially diminished between permission and completion.
11. In conclusion, the proposed minor material amendment would harm the character and appearance of the area. The proposal would therefore be at odds with Policy G5 of the Guildford Local Plan 2003 and Policy D1 of the Guildford Borough Local Plan: Strategy and Sites 2015 - 2034. These policies seek to secure high quality development that incorporates a high standard of landscape design within the town scape.

Other Matters

12. The appellant is seeking to reposition the garage due to a restrictive covenant that prevents the erection of buildings in the location of the garage at Plot 12. As a result, the proposed amendment would be an awkward retrospective change rather than a design led alteration aimed at improving the proposal. It is unclear why the original design did not take the covenant into account. It is now a more acute constraint due to the commencement of works. However, this apparent oversight does not justify eroding the quality of the scheme. Moreover, it has not been demonstrated that the proposal is the only solution. For example, Plot 12 could simply forgo a garage in the same way the residents of other homes in the development will.
13. The appeal site is located within a conservation area and near to a listed building. As the appeal scheme has failed, it will have no impact on the setting of these designated heritage assets and therefore I need not consider this matter further. As a scheme for 23 homes, the proposal would deliver several benefits. However, these would be realised by implementing permission 20/P/01273, which is well under way. As a result, this is not a determinative point. In this instance, the proposal falls to be considered on the merits of the proposed minor material amendment.

Conclusion

14. The appeal scheme would be contrary to the development plan and this is not outweighed by other considerations. Accordingly, the appeal is dismissed.

Graham Chamberlain
INSPECTOR