



Appeal Decision

Site visit made on 8 November 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/D3640/W/22/3298468

Land to the rear of 110A-110E Frimley Road, Camberley GU15 2QN

- 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 K Gunbie of Lindback Limited against the decision of Surrey Heath Borough Council.
 - The application Ref 21/1108/FFU, dated 10 November 2021, was refused by notice dated 15 February 2022.
 - The development proposed is erection of 4 one bedroom apartments with associated access from Bridge Road, car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 4 one bedroom apartments with associated access from Bridge Road, car parking and landscaping at Land to the rear of 110A-110E Frimley Road, Camberley GU15 2QN in accordance with the terms of the application, Ref 21/1108/FFU, dated 10 November 2021, subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. The description of development used on the application form originally sought consent for five apartments. Only four apartments are now proposed, so I have taken the description from the Council's decision notice, which reflects this update to the scheme.
3. The Council's fifth reason for refusal concerned a lack of mitigation towards any impact of the development on the Thames Basin Heaths Special Protection Area (SPA). Given that a financial payment towards Strategic Access Monitoring and Maintenance (SAMM) has now been made by the appellant, the Council is satisfied that appropriate mitigation has been secured, and that this reason for refusal has been adequately overcome. Whilst I have therefore not dealt with this matter as a main issue, in line with my statutory duties under The Conservation of Habitats and Species Regulations 2017 (as amended), I am still required to carry out an appropriate assessment with regard to this issue. I have addressed this in the "Other Matters" section of this decision.
4. The Council's sixth reason for refusal related to a lack of payment towards a Traffic Regulation Order necessitated by the development. Given this payment has now been paid, the Council is satisfied that this reason for refusal has been adequately addressed. I have therefore not considered this issue further.

Main Issues

5. In this context, the main issues are the effect of the proposed development on:

- the character and appearance of the area, including the proposal's relationship with the neighbouring commercial site;
- the living conditions of the occupiers of neighbouring dwellings, as well as those of future occupiers of the development; and
- the operation of neighbouring businesses.

Reasons

Character and Appearance

6. The appeal site, which is located to the south of Bridge Road, comprises an area of hardstanding which is currently used for parking in conjunction with the commercial premises to its west. The site is bordered by a parade of shops with flats above to its east, which front on to Frimley Road. Whilst the buildings to the west and north-west of the site are commercial/industrial in nature, a residential cul-de-sac (Bridge End) runs north off Bridge Road, immediately opposite. The site's surroundings are therefore distinctly mixed in character, which reflects the character appraisal for the area in the Western Urban Area Character SPD (WUAC SPD), which highlights the area's mixed nature, noting the variation in ages and architectural style of the buildings.
7. The Council's updated Strategic Land Availability Assessment (SLAA) (Feb 2022) identifies the appeal site to be suitable for the delivery of up to five dwellings. The SLAA says "*the site borders residential areas and is in a sustainable location in the Camberley/Frimley settlement area, with adjoining shops, services and transport connections. The site is previously development and is not subject to any other major constraints [...] Development of 5 (net) new homes is considered to be a more realistic capacity for this site*". This assessment, which helps inform the evidence base for the Council's emerging Local Plan, is indicative of the site's potential suitability for housing.
8. The proposal would introduce a two storey building within the appeal site, which would incorporate four apartments. The WUAC SPD specifically identifies flats as one of the forms of infill development which contributes to the character of the area, and so the development would be in-keeping in this regard. Access to the site would be opposite the junction to the Bridge End cul-de-sac, which would ensure a logical and coherent relationship with neighbouring residential built form. The parking to serve the new dwellings would be located on the southern part of the appeal site (to the rear of the new apartments). This arrangement means the parking would be discreetly located, ensuring it would not dominate the street scene along Bridge Road.
9. In terms of layout, the access road to the commercial premises would help separate the new residential use from the commercial character of this neighbouring land. The existing mature trees which currently flank the western part of the site would also help demarcate this separation. These factors would help ensure the new flats would be properly distinct from the commercial land to their rear.

10. Relative to the wider plot, the proposed flats would be modest in size. The building would be two storeys tall, which would be commensurate with the height of nearby neighbouring properties. The building would incorporate a simple hipped roof design with gabled ends, which would echo the roofscape of many properties in the area. The building would also incorporate horizontal brick banding with quoin detailing to the corners, as well as a simple porch at the entrance to the property, all of which are characteristic of properties in the area. These shared design features would ensure the new flats would complement the character of its immediate surroundings.
11. Whilst the proposed bin store would be located adjacent to the street frontage along Bridge Road, the bins would be located within a timber storage structure, which would largely be screened from view by a proposed hedgerow, together with a 1 metre bow top fence. These features would help ensure that the bins would not appear overly conspicuous within the street scene, whilst also ensuring a practical location for their storage. Whilst I note the Council's preference is for bins to be stored to the rear or side of a residential property (as set out in the Residential Design SPD), in this instance, such an arrangement would not be practical, as the storage would either interfere with the parking spaces to the rear, or else the soft landscaping/amenity space to the side of the apartment building.
12. On account of these factors, I am satisfied that the development would complement the character and appearance of the area. The proposal would be consistent with Policy DM9 of the Council's Core Strategy & Development Management Policies 2011 – 2028 (Core Strategy), which seeks to ensure new development respects and enhances the existing character of an area, through high-quality design which is appropriate in terms of scale, materials, massing, bulk and density. Broadly speaking, the development would also reflect the overarching design principles set out in the Residential Design Guide (2017), the National Design Guide, the WUAC SPD and the National Planning Policy Framework (2021) (Framework).

Living Conditions

13. The eastern elevation of the proposed apartment block would directly face a number of the residential flats which sit above the shops fronting on to Frimley Road, specifically nos. 110A-110E. Whilst guidance only, the Council's Residential Design Guide suggests a minimum separation distance of 20 metres between residential buildings to ensure appropriate levels of privacy are maintained, although side to side distances of 15 metres can sometimes be considered acceptable. Nonetheless, the Residential Design Guide does say that such separation distances may not always be appropriate or possible, particularly in more compact contexts, such as town centre locations or infill plots. The guidance can therefore be applied flexibly depending on the context of a site.
14. In this instance, the gable element of the eastern elevation would project further forward than the remainder of the flank wall. There would be a separation distance of 12 metres between this element of the scheme and the rear elevation of nos. 110A-110E Frimley Road. Whilst this does fall short of the recommended side to side separation distances, the gable only represents approximately 4.5 metres of the total eastern elevation, which is 13 metres in total. This gable element of the building would only accommodate the stairwell

to the flats as opposed to any habitable living space, which also means it should not give rise to any meaningful degree of overlooking. The remaining element of the eastern elevation to the flats would be sited approximately 15 metres from the rear elevation of nos. 110A-110E, which would be more closely aligned with the side to side separation distances set out in the guidance.

15. Whilst the separation distances would not fully conform to the relevant guidance, it would be very difficult for the scheme to achieve greater levels of separation, without compromising its overarching legibility. Noting that the appeal site is considered suitable for residential development in the SLAA, if the guidance were to be rigidly applied, this could potentially preclude the possibility of any housing coming forward on the site. In turn, a flexible approach to the guidance is appropriate.
16. I have considered whether the windows on the eastern elevation of the new flats at first floor level should be obscure glazed to help reduce any scope for mutual overlooking. However, the benefit of obscure glazing to the occupiers of nos. 110A-110E would only be minimal in this instance, and the benefit of non-obscured glass to the occupiers of the new flats, particularly in terms of natural light, would likely be far greater. Ultimately, such a condition would therefore not be warranted.
17. Moreover, given that much of the external areas of the appeal site would incorporate areas of green space and landscaping, the outlook from nos. 110A-110E would likely be much improved when considered against the existing brownfield nature of the site. The improved outlook would help compensate for any actual or perceived impact on privacy with regard to these properties.
18. In terms of private amenity space, each of the ground floor flats would benefit from its own area of private amenity space, which would extend across its full width, and which would exceed 3 metres in depth. Associated boundary treatments could be secured by condition, to ensure these areas are well defined. The first floor flats would also incorporate balconies, which would have a minimum depth of 1.5 metres. The proposal would therefore meet the parameters for private amenity space within flatted developments, as set out in the Residential Design Guide.
19. For these reasons, I consider that the proposed scheme would procure adequate living conditions for the neighbouring occupiers of 110A-110E Frimley Road, as well as future occupiers of the flats within the new development. The development would therefore be consistent with Policy DM9 of the Council's Core Strategy, which seeks to ensure development provides sufficient levels of private amenity space, and respects the amenities of occupiers of neighbouring properties. Whilst the proposal would fall short of some of the recommended separation distances set out in the Residential Design Guide, I am satisfied that the degree of separation with neighbouring properties would be adequate, given the constrained context of the site.

Neighbouring Businesses

20. As highlighted by the appellant, the commercial premises adjacent to the proposed development site were granted planning permission in 1993, under application reference 93/0095. The development permitted was "*erection of building comprising 1024m² floorspace for B1 use and associated parking*".

Whilst Use Class B1 has now been merged into the wider E Use Class (commercial, business and service use), any commercial use within B1 was previously limited to operations which could be carried out in any residential area without detriment to the amenity of that area (by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit). The commercial building was therefore consented on the basis that it could operate within a residential area, without harm to neighbouring amenity.

21. The commercial premises are also located in close proximity to other residential properties, with one house on the northern side of Bridge Road being just 15 metres away. The distance between the commercial premises and the new flats would be comparable. In turn, the new dwellings would not introduce any new degree of sensitivity in and around the business premises, which would adversely impact on their operations.
22. On this basis, I am satisfied that the development would not place any undue restrictions on the operation of neighbouring businesses, over and above any restrictions which already exist. The development would therefore be consistent with paragraph 187 of the Framework, which seeks to ensure new development integrates effectively with existing businesses and community facilities, without placing any unreasonable restrictions on them.

Other Matters

23. The appeal site is located within a 5km buffer zone of the Thames Basin Heaths Special Protection Area (SPA). The SPA has been identified as an internationally important breeding habitat for a number of rare species of bird. The proposed development has the potential to lead to increased recreational use of the SPA, owing to the additional residential units. In combination with other similar small-scale development, this means the proposal could result in increased disturbance to the protected habitats and species found in this area. As a result, it is not possible to rule out likely significant effects on the SPA.
24. Nonetheless, The Thames Basin Heaths SPA Avoidance Strategy SPD (2019) (SPA Avoidance Strategy), sets out measures to help mitigate against the potential effects from new housing. This mitigation is achieved through financial contributions towards the provision of Suitable Alternative Natural Green Space (SANGS) within the Council's borough, which is aimed at providing an alternative recreation location to the SPA. Further mitigation is also secured through financial contributions towards Strategic Access Management and Monitoring (SAMM), which helps monitor and manage the impact of people using the SPA.
25. In this instance, the Council has confirmed that there is sufficient SANGS capacity within its area to mitigate against the proposal. This financial contribution would be collected through the Community Infrastructure Levy, which would be payable prior to commencement of the proposed development. The appellant has also made a separate payment of £1827.56 towards SAMM, which reflects the SAMM tariff set out in the SPA Avoidance Strategy.
26. In turn, the proposed mitigation would meet the requirements of the SPA Avoidance Strategy, which was prepared in conjunction with Natural England. As competent authority, I am therefore satisfied that with the proposed mitigation, the development would not have an adverse effect on the integrity

of the SPA. The development would therefore comply with the Conservation of Habitats and Species Regulations 2017 (as amended).

Conditions

27. The Council has supplied a list of suggested conditions which I have reviewed and updated in line with Planning Practice Guidance (PPG) and the Framework.
28. In line with the Council's Executive resolution made in August 2019, the implementation period for the planning permission is limited to one year. This is to ensure that available SANGS capacity within the Council's area is not left artificially depleted due to unimplemented planning permissions.
29. Details of external surfaces must be submitted to and approved by the Council prior to commencement, to ensure materials integrate as far as possible with the surrounding area (condition 3). A hard and soft landscaping scheme must also be approved prior to commencement, which will help secure a good level of visual amenity within the site and its surrounds (condition 4).
30. A Construction Transport Management Plan must be approved prior to commencement, to help minimise the impact of development on neighbouring amenity during construction (condition 5). Given the brownfield nature of the site, a condition to deal with any risks posed by contamination is also necessary (condition 6).
31. Suitable access arrangements to the site must be completed prior to occupation of the new dwellings, to ensure highway safety is properly maintained as part of the development (conditions 7 and 8). Car parking spaces, cycle parking and bin storage must also be completed prior to occupation (conditions 9 and 10). Finally, fast charge sockets must also be implemented prior to occupation of each dwelling, to help promote sustainable modes of transport within the Council's area (condition 11).
32. The Council suggested a separate condition requiring details of hardstanding to be approved prior to commencement. However, I am satisfied that these details are sufficiently covered by the hard and soft landscaping scheme. The Council also requested a condition requiring the existing access to the site to be permanently closed, with a corresponding requirement that any kerbs, verge and footway are properly reinstated. However, given that the existing access is shared with the neighbouring industrial premises, I do not consider such a condition is needed, nor appropriate. Moreover, details of boundary treatments, including the fencing to separate the development from the industrial site to the rear, will require approval as part of the hard and soft landscaping scheme.

Conclusion

33. For the reasons given above, and having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal should be allowed.

James Blackwell

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 1 year from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 2020/06/L201 (Location Plan); 2020/06/P101 Rev A (Proposed Site Plan); 2020/06/P102 (Proposed Ground and First Floor Plans); 2020/06/P103 (Proposed Roof Plan); 2020/06/P104 (Proposed Elevations); and 2020/06/P105 (Proposed Bin and Cycle Storage).
- 3) No development shall commence until samples or details of the materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved samples or details and retained thereafter.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping, which shall include details of all walls, fences and boundary treatments, existing trees and hedges to be retained (as well as protection measures during construction if applicable) and new planting to be carried out. The approved scheme shall be implemented in accordance with the agreed details and timetable. Any trees or plants forming part of the approved scheme which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) No development shall commence until a Construction Transport Management Plan (CTMP) has been submitted to, and approved in writing by the Local Planning Authority. The CTMP shall provide for:
 - the parking of vehicles of site personnel, operatives and visitors;
 - loading and unloading of plant and materials;
 - onsite turning for construction vehicles;
 - storage of plant and materials;
 - programme of works (including measurement for traffic management);
 - provision of boundary hoarding;
 - condition surveys of the highway and a commitment to fund any damage caused during construction;
 - measures to control the emission of dust and dirt during construction; and
 - construction working hours

The approved CTMP shall be adhered to throughout the construction period of development.

- 6) No development shall commence until a scheme to deal with potential contamination of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a contaminated land desk study and suggested site assessment methodology; a site investigation report;

a remediation action plan; a discovery strategy to deal with unforeseen contamination discovered during construction; a validation strategy identifying measures to validate the works undertaken as a result of any remediation needed; and if necessary, a verification report with appropriate supporting evidence to demonstrate any agreed remediation has been carried out. The development shall be carried out wholly in accordance with the approved scheme.

- 7) No dwelling hereby permitted shall be occupied until the modified access to Bridge Road has been laid out in accordance with drawing 2020/06/P101 Rev A (Proposed Site Plan), which shall include the pedestrian inter-visibility splays of 2m by 2m on either side of the access (with the depth measured from the back of the footway or verge and the widths outwards from the edges of the access). The access shall thereafter be permanently maintained, and the pedestrian visibility splays shall be kept free of any obstruction above 0.6m in height.
- 8) To facilitate access to the development, the existing parking pays to the front of the modified site access along Bridge Road shall be altered in accordance with a scheme to be submitted to and approved by the Local Planning Authority, which shall include details of any necessary Traffic Regulation Order amendments. The alterations to the parking bays shall be implemented in accordance with the approved scheme prior to occupation of the development.
- 9) No dwelling hereby permitted shall be occupied until the car parking spaces have been laid out in accordance with drawing 2020/06/P101 Rev A (Proposed Site Plan). The car parking spaces shall thereafter be kept available at all times for those purposes.
- 10) No dwelling hereby permitted shall be occupied until the cycle parking and bin storage have been laid out in accordance with drawings 2020/06/P105 (Proposed Bin and Cycle Storage) and 2020/06/P101 Rev A (Proposed Site Plan). The cycle parking and bin storage shall thereafter be retained for their designated purpose.
- 11) No dwelling hereby permitted shall be occupied until a fast charge socket to serve that dwelling has been installed, which shall be in accordance with a scheme to be submitted to and approved by the Local Planning Authority in writing.