



Appeal Decision

Site visit made on 30 November 2022

by **A. Price BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/M1710/W/21/3289435

1-6 Robin Hood Gardens, Standford, Bordon GU35 8RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Saville of Saville Homes Limited against the decision of East Hampshire District Council.
 - The application Ref 24934/027, dated 29 June 2021, was refused by notice dated 8 September 2021.
 - The application sought planning permission for 6 dwellings after demolition of existing restaurant without complying with a condition attached to planning permission Ref 24934/021, dated 1 September 2020.
 - The condition in dispute is No 15 which states that: *"The development hereby permitted shall be carried out in accordance with the following approved plans and particulars: Application Form; 7814/D01 rev B - Proposed site plan; 7814/D02 rev A - Plot 1 floor plans; 7814/D03 rev B - Plot 1 elevations; 7814/D04 rev A - Plot 2 floor plans 7814/D05 rev A - Plot 2 elevations; 7814/D06 - Plot 3 & 4 floor plans; 7814/D07 rev A - Plot 3 & 4 elevations; 7814/D08 - Plot 5 & 6 floor plans; 7814/D09 - rev A Plot 5 & 6 elevations 7814/D010 rev A - Plot 1 garage plans; 7814/D011 - Plot 2 garage plans".*
 - The reason given for the condition is: *"To ensure provision of a satisfactory development."*
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Decision

1. The appeal is allowed and planning permission is granted for 6 dwellings after demolition of existing restaurant at 1-6 Robin Hood Gardens, Standford, Bordon GU35 8RN in accordance with application Ref 24934/027 dated 29 June 2021, without compliance with condition number 15 previously imposed on planning permission Ref 24934/021 dated 1 September 2020 and subject to the conditions appended to this decision.

Preliminary Matters

2. I note that the address on the application form refers to Whiteley's Family Restaurant, which formed the original site address. However, the address on the appeal form relates to 1-6 Robin Hood Gardens. The residential development permitted under that original planning permission has been completed and so the address on the appeal form (the site's current address) has been used, and has been included in the banner heading above.
3. The gates have been installed and therefore I am considering this appeal retrospectively.

Background and Main Issues

4. Planning permission Ref 24934/020 granted the erection of 6 dwellings following the demolition of a restaurant on the site. This was subject to conditions. The development has since been implemented and occupied.
5. Planning permission Ref 24934/029 previously granted the erection of existing Gate 1 and the piers (but no gates) for existing Gate 2.
6. The condition in dispute is condition 15 of Ref 24934/021. The appellant wishes to vary condition 15 so that the two sets of entrance gates, with associated walls and fences, which did not form part of the original planning permission can be installed. For Gate 2, this includes a gate within the piers. At the time of my visit, these features had already been installed.
7. Planning Practice Guidance (PPG) sets out that an appeal under Section 73 of the 1990 Act will consider only the disputed conditions. I have approached the appeal on that basis and there is nothing that I have read or seen to indicate that the proposal is otherwise unacceptable.
8. The main issues are:
 - the effect that varying condition 15 would have on the character and appearance of the area; and
 - the effect that varying condition 15 would have on the living conditions of the occupants of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Character and appearance

9. The appeal site comprises a small housing development. Separate entrances are provided for 1 Robin Hood Gardens (Gate 1) and 2-6 Robin Hood Gardens (Gate 2) respectively. The existing gates at both entrances are of a similar appearance, formed of double timber gates with brick piers and walls. A timber fence exists along the front boundary of the site, set behind planting.
10. Properties within the surrounding area are varied in their appearance, period and scale. Similarly, there is significant variation in the type and appearance of boundary treatments in the area, formed of a mixture of landscaping, fencing and walls. Multiple examples of gates exist within the surrounding area. These, too, are varied in their individual design and appearance. Despite this variation, gates and boundary treatments of a similar design and appearance to those at the appeal site can be seen within the surrounding area, including on the opposite side of the B3004. These form a dominant feature of the area.
11. I note the reference by the Council and neighbours to the gates, in particular, serving multiple properties rather than individual dwellings and that this has resulted in the creation of a 'gated community'. I also note Policy CP29 of the East Hampshire District Local Plan: Joint Core Strategy (2014) (CS) makes reference to inclusive design in development. However, the layout of the housing development itself, now completed, is set away from the lane to create what is essentially a cul-de-sac. This was considered by the Council previously. In granting planning permission, the Council found the proposal to be acceptable in that respect. The existence, or not, of gates to this previously

permitted development, set away from the highway and accessed via a private driveway, does not change that. It is not a site which members of the public and others would, in any case, typically expect to access or pass through. Moreover, planning permission Ref 24934/029 permitted Gate 1 and the piers of Gate 2. There is nothing before me that indicates the proposal is any different from that permission, apart from the addition of gates between the piers of Gate 2.

12. I acknowledge that the examples of gates and boundary treatments within the wider area are typically associated with individual dwellings rather than collections of dwellings. Nevertheless, these features exist and are highly visible from public vantage points. Consequently, they form part of the character of the area, irrespective of the type or scale of development they serve. From that perspective, the gates and boundary treatments would not be at odds with the prevailing character of the area.
13. The site falls within the River Wey Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA lies in its river valley setting.
14. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I have set out above that the development, limited to the gates and boundary treatments to the front of the site, has an acceptable impact on the character and appearance of the area. Based on the evidence before me, and my observations on site, I find no harm in respect of the character and appearance of the CA. Its significance would therefore be preserved.
15. Overall, I conclude that the development is acceptable in respect of the character and appearance of the area, in accordance with the relevant provisions of CS Policies CP20 and CP29, which in summary seek to encourage high quality design in development which is sympathetic to setting. This is in a similar vein to the objectives of paragraph 130 of the National Planning Policy Framework (the Framework) insofar as good design is concerned.

Living conditions

16. I acknowledge that there would be the potential for an increase in noise breakout arising from vehicles arriving and waiting outside the gates to access the site, whether occupants or visitors. This would come in the form of engines running and manoeuvring. However, the appeal site accommodates only a modest number of dwellings and traffic movements to and from the site are unlikely to be of a high volume. Furthermore, there is no substantive evidence before me to demonstrate that excessive levels of noise or disturbance have resulted from the use of the gates to date, nor that this would be the case as a result of this appeal.
17. Delivery vehicles are likely to use the adjacent lane irrespective of the existence of gates. Similarly, the idling of vehicles could occur within the site or within the lane, irrespective of the gates.

18. In respect of the use of outdoor lighting, I acknowledge that the site is positioned in a dark part of the district, which has limited street lighting or private lighting. I observed that lights exist to the piers of the gates, although these were downlighters. I have no substantive evidence before me to indicate that the use of lighting at the appeal site would have an unacceptably harmful impact on the living conditions of nearby properties. Any impact from lights from vehicles entering/exiting the site via the gates would be similar whether or not the gates existed, although I accept that cars may be positioned at the gates momentarily while they are opened.
19. Overall, I conclude that the proposed development would not result in unacceptable harm to the living conditions of the occupants of neighbouring properties, with particular regard to noise or disturbance. The proposed development would accord with the relevant provisions of CS Policy CP27 which in summary seeks to safeguard the amenities of communities and their environs, including in respect of light and noise pollution. This is in a similar vein to the objectives of paragraph 130 of the Framework insofar as living conditions are concerned.

Other Matters

20. I have carefully considered the comments received from neighbours and others in respect of the proposed development.
21. Matters relating to Party Wall Agreements, land ownership, the maintenance of privately managed intercoms, access to utility poles and the delivery of post to neighbouring properties have been raised. My assessment must focus on the site and proposals before me. As explained above, I have found the development to comply with the development plan. These matters do not alter my assessment of the main issues above. Issues relating to any unauthorised works, with particular reference to trees, are a matter for the Council and appellant. Reference has been made to Policy DM30 in respect of gated communities, however I am not clear what policy documents that relates to. Matters of inclusivity have nonetheless been dealt with under the main issue.
22. There is no dispute between the Council and appellant in respect of highway safety, with no objection from the highway authority. I have no reason to disagree with these findings. Matters relating to light pollution are reasoned above. There is no evidence before me in respect of harm to wildlife as a result of the use of limited external lighting.

Conditions

23. I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider to remain relevant.
24. As the application is retrospective, and the original development has been commenced, the originally imposed condition 1 in respect of standard time limits is not necessary and has not been reimposed.
25. The majority of the other conditions on the original planning permission are related to the construction of the building (conditions 2, 3, 5, 6, 7, 8, 10, 11 and 12). As the permitted housing development has been built and occupied, these conditions, together with condition 14, are unnecessary.

26. The suggested condition in respect of lighting details is not necessary for the reasons explained within the main issues.
27. Two original conditions removing permitted development rights have been reimposed. These relate to the wider development, beyond the focus of the appeal before me and I have no reason to disagree with the Council's original findings in those respects.
28. An original condition relating to the felling and replacement of trees has been imposed as although the development has been commenced, this requires that any trees which are removed or die within a period of 3 years after planting are replaced. I consider this reasonable and the condition has been reimposed in the interests of character and appearance.
29. An approved plans condition has been imposed in the interests of clarity.

Conclusion

30. For the above reasons, having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

A. Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and particulars:

Application form

7814/D01 rev K - Proposed site plan

7814/D02 rev A - Plot 1 floor plans

7814/D03 rev B - Plot 1 elevations

7814/D04 rev A - Plot 2 floor plans

7814/D05 rev A - Plot 2 elevations

7814/D06 - Plot 3 & 4 floor plans

7814/D07 rev A - Plot 3 & 4 elevations

7814/D08 - Plot 5 & 6 floor plans

7814/D09 - rev A Plot 5 & 6 elevations

7814/D010 rev A - Plot 1 garage plans

7814/D011 - Plot 2 garage plans

7814/D12 - Entrance gates

- 2) Within 6 months of the date of felling Tree 3, a replacement tree shall be planted. The details (size and species) of which shall first have been agreed in writing with the Local Planning Authority, and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. Any trees which, within a period of 3 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless a suitable alternative species has been otherwise agreed in writing by the Local Planning Authority.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions and outbuildings otherwise permitted under Schedule 2, Part 1, Classes A, B, C, D, E of said Order shall be carried out on the dwellinghouse or within its curtilage without the prior written consent of the Local Planning Authority.
- 4) Notwithstanding any indication shown on the approved plans, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) prior to the first occupation of the development hereby approved the first floor bedroom window in the north elevation of plot 3 of the development hereby permitted shall be permanently: (i) glazed with obscure glass with a glass panel which has been rendered obscure as part of its manufacturing process to Pilkington glass classification 5 (or equivalent of glass supplied by an alternative manufacturer) below 1.7m from the finished floor level of the room in which the window is installed, and (ii) the details of the means of opening of the part of the window below 1.7m above the finished floor level of the room shall be first agreed in writing with the Planning Authority and thereafter implemented and retained as approved.