



Appeal Decision

Site visit made on 24 January 2023

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13/04/2023

Appeal Ref: APP/Y3615/W/22/3294490

133 Worplesdon Road, GUILDFORD, GU2 9XA

- 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 AHD Homes against the decision of Guildford Borough Council.
 - The application Ref 21/P/01466, dated 1 July 2021, was refused by notice dated 10 January 2022.
 - The development proposed is the conversion of the unused rear part of the existing estate agents to a 1 bed flat with some minor fenestration changes.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the rear part of the existing estate agents to a 1 bed flat with some minor fenestration details, at 133 Worplesdon Road, GUILDFORD, GU2 9XA, in accordance with the terms of the application Ref 21/P/01466, dated 1 July 2021 and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Procedural matter

2. The appeal scheme now includes a formal Unilateral Undertaking made under section 106 of the Act, dated 7th March 2023 and signed on behalf of the appellant. I find that it meets the tests set out in paragraph 57 of the National Planning Policy Framework (the Framework) and the Community Infrastructure Levy Regulations 2010 and I have had regard to this Undertaking as a material consideration.

Main Issues

3. The main issues are:
 - Whether the proposed flat would provide reasonable living conditions for the future occupier in terms of space and privacy; and
 - The effect on the Thames Basin Heaths Special Protection Area (TBHSPA)

Reasons

Background

4. The appeal site comprises a two storey semi-detached property which lies in an area with a mix of residential and commercial uses. At the moment the property has an estate agents office on the ground floor and a residential flat on the upper floor. It is proposed to subdivide the office space leaving modest

office premises at the front and create a single bedroom flat to the rear. This would have pedestrian access to the side of the property via a path. The site lies within the urban area of Guildford and there is no policy objection in principle to the reuse of part of the building for residential accommodation.

Effect on living conditions

5. There are two aspects to this issue: the size of the residential flat proposed, and whether the accommodation would be overlooked with a loss of privacy for the occupiers.
6. In terms of size the Council refers to the nationally described space standards which have been adopted through Policy D1 of the Guildford Borough Local Plan. In these the minimum size for a one bedroom/two person single storey dwelling is 50sqm while the gross internal floorspace for the flat proposed is 45.3 sqm. The appellant says that the proposal is for a single person unit and the accommodation exceeds the relevant standard of 39 sqm. The Council suggests that the double bed shown on the plans is an indication of two-person use. However, that is not a determinative point as a single bed could have been shown on plans but changed at some point after. Looked at in the round it appears to me that the size and layout of the flat suggest it is more likely to be used for single person use and the limited shortfall from the indicative minimum standards is not significant, bearing in mind the government's overall aim to greatly boost the supply of a mixed variety of homes.
7. In relation to quality and privacy I note that the scheme involves glazing the roof of a lean-to along the side of the proposed flat. This would provide natural daylight to the livingroom space and the bedroom although the only view out would be of the sky. The Council is concerned that this arrangement could be overlooked from the side facing windows in the existing flat at first floor causing the inhabitants of the proposed flat a loss of privacy.
8. I noted at the site visit that one of the first-floor windows is to a bathroom and the window appears to be glazed with obscure glass. In any event the normal line of sight from the upper window would not be towards the new glazed roof and a person would have to make an effort to look out of the first floor windows at a low angle to see into the flat below. It also appears to me that it is more than likely that the users of the proposed flat would install blinds on the sloping glazing to protect against heat and to have privacy against any overlooking. I therefore do not see that overlooking would be a significant drawback in practice.
9. Overall on this issue I am satisfied that the proposed one bedroom flat would have reasonable accommodation for the living conditions of the occupier(s) and that such occupier(s) would not be likely to suffer from overlooking resulting in a loss of privacy. There is therefore no conflict with the provisions of Policies H1, D1 or H4 as related to new housing in urban areas.

Effect on TBHSPA

10. The Council advises that the appeal site lies within the 5km buffer zone of the designated TBHSPA. This habitat site supports various species of ground nesting birds although there has been a decline in their numbers over recent years. Recreational pressures, particularly from dog walking, arising from new development have been found to add to the disturbance of wildlife. The

Council advise that the proposal for an additional residential unit, either alone or in combination with other plans and projects, has the potential to have a significant adverse effect on the integrity of the recognised habitat.

11. However, the Council goes on to advise that the TBHSPA Avoidance Strategy provides a framework where an applicant can provide a contribution to the provision of Sustainable Alternative Natural Green Space (SANGS) within the borough along with Strategic Access Management and Monitoring (SAMM) to mitigate the impact of the development.
12. The appellant offered to make the contribution in accordance with the Council's present tariff and submitted a draft Unilateral Undertaking, however, the Council did not pursue this because of the other objections to the development.
13. As I have found that the proposal is acceptable on the first issue on living conditions, the potential legal agreement needs to be reconsidered as a means of resolving the effect on the SPA. Moreover, I sought specific advice from Natural England on this effect and the Undertaking as a means of mitigation and resolving it. Provided the Undertaking accords with the Strategy Natural England raise no objection to the proposal.
14. For the purposes of the Habitat Regulations I am the 'competent authority' and need to undertake an Appropriate Assessment. On the evidence submitted I find that the proposal, on its own or in combination with other plans and projects would be likely to have a significant effect on the habitat and its conservation objectives through increased recreational activity. However with an appropriate contribution towards mitigation by the proportionate provision of additional SANGS and SAMM, I am satisfied that the proposal would not adversely affect the integrity of the habitat. On this basis there is no conflict with saved Policy NE4 of the Guildford Borough Local Plan or Policy P5 of the Guildford Borough Local plan: Strategy and Sites. The proposal may therefore be permitted under the Habitat Regulations.

Planning balance

15. On the main issues I have found that the partial conversion of the office accommodation to a one person flat would result in reasonable living conditions for the occupier and who would not be likely to suffer from overlooking and a loss of privacy. The proposal also now includes a formal Undertaking to make a financial contribution in accordance with the TBHSPA Avoidance Strategy and so ensure that an additional flat would not result in additional recreational pressures which would adversely affect the integrity of the habitat. As I have found that the proposal does not conflict with the relevant provisions of the development plan it should be allowed.

Conditions

16. The Council recommends 6 conditions which I will consider under the same numbering. Conditions No's 1 and 2 are reasonable and necessary to regulate the commencement of the development and specify the plans that are approved in the interest of clarity. Condition No.3 on cycle parking is reasonable to encourage means of sustainable travel and I will impose it.
17. Conditions 5 and 6, relating to water consumption and the use of energy within the flat mainly relate to Policy D.2 of the Council's Local Plan and the Climate Change, Sustainable Design, Construction and Energy SPD as pursuant to this

Policy. There is therefore sufficient policy backing for these requirements to ensure that the use as a residential flat comprises sustainable development and I will impose them but modify No.5 so that it relates to first occupation rather than 'before development commences' so as not to hold up acceptable development.

18. Finally in the interests of amenity and proper waste disposal it is reasonable to impose condition No. 6 for the storage of waste and recycling bins.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

David Murray

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: A202 rev e, A201 rev e and A101 rev d received on 01/07/2021.
3. The development hereby approved shall not be first occupied unless and until secure and covered cycle storage facilities have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Thereafter, the cycle storage facilities shall be permanently retained and maintained.
4. The development hereby permitted must comply with regulation 36 paragraph 2(b) of the Building Regulations 2010 (as amended) to achieve a water efficiency of 110 litres per occupant per day (described in part G2 of the Approved Documents 2015). Before occupation, a copy of the wholesome water consumption calculation notice (described at regulation 37 (1) of the Building Regulations 2010 (as amended)) shall be provided to the Council to demonstrate that this condition has been met.
5. Prior to the first occupation of the flat energy information shall be submitted to and approved in writing by the Local Planning Authority. The energy information will identify the building regulations Target Emissions Rate (TER) and the Dwelling Emission Rate (DER) for the proposed flat, and demonstrate that the DER is at least 20 per cent lower than the TER. The energy information shall set out how the carbon emissions reduction has been achieved through the use of energy efficiency measures and low and zero carbon energy technologies in line with the energy hierarchy. SAP summary sheets that support the figures will be included in the energy information. Where the carbon reduction will be met in full or in part through the provision of low or zero carbon energy technologies, the energy information shall include an accurate and robust appraisal of all potential technologies and set out the reasons for selecting the chosen technologies. The approved details shall be implemented prior to the first occupation of the flat and maintained as operational thereafter.
6. Details of storage facilities for bins and recycling details must be submitted to and approved by the LPA prior to the first occupation of the flat and thereafter maintained for the duration of the development.

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