



Appeal Decision

Site visit made on 19 July 2023

by D Cramond BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2023

Appeal Ref: APP/Y3615/W/22/3312411

St Thomas Court, 39 Epsom Road, Guildford GU1 3LA

- 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 planning permission.
 - The appeal is made by Mrs Catherine Wheeler against Guildford Borough Council.
 - The application Ref 22/P/00034 is dated 17 December 2021.
 - The development proposed is the conversion of existing office use B1(a) to residential C3 for 7no. apartments including: removal of the existing single storey entrance lobby; introduction of a three storey side gable extension, installation of rooflights, provision of front lightwell and enlargement of the existing basement with external staircase; and associated cycle and car parking and refuse storage.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing office use B1(a) to residential C3 for 7no. apartments including: removal of the existing single storey entrance lobby; introduction of a three storey side gable extension, installation of rooflights, provision of front lightwell and enlargement of the existing basement with external staircase; and associated cycle and car parking and refuse storage at St Thomas Court, 39 Epsom Road, Guildford GU1 3LA in accordance with the terms of the application, Ref 22/P/00034, dated 17 December 2021, subject to the conditions on the attached schedule and the terms of the Legal Agreement made under Section 106 of the Act and dated 10 October 2023.

Preliminary Matters

2. The Council has indicated that had the proposal remained with the authority for determination it would have granted a planning permission subject to the imposition of conditions and a Section 106 Legal Agreement. An undated Officer's Report submitted with the Appeal Questionnaire considers the proposal in some detail. There is no dispute between the principal parties, and there is limited consultee or third-party interest. My consideration of the main issues can therefore be brief unless I differ appreciably from the Council or the Appellant.
 3. The appeal submission includes a formal Legal Agreement made under section 106 of the Act, dated 10 October 2023 and signed on behalf of the Appellant and the Council. I find that it meets the tests set out in paragraph 57 of the National Planning Policy Framework (the Framework) and the Community
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Infrastructure Levy Regulations 2010 and I have had regard to this Agreement as a material consideration.

Main Issues

4. The main issues are:

- the principle of the change of use;
and the effect of the proposal on:
- the character and appearance of the locality;
- residential amenity for neighbours and future occupiers;
- highway safety and parking;
- the environment generally; and
- the Thames Basin Heath Special Protection Area (TBHSPA) specifically.

Reasons

5. The appeal site is a large detached former house converted into offices some 20 years ago. It lies in the Guildford Urban Area inside the town centre Conservation Area within a locality characterised by Victorian and Edwardian houses in relatively large plots; the overall appearance is pleasing. Immediately surrounding properties tend to be residential in use although locally there is mix of residential, office and consultancy use, such as doctors, dentists. The proposal is as described above.

Principle

6. In terms of the conversion of office space to residential outside designated sites Policy E3 in the Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (LP) effectively allows some flexibility albeit unless a range of criteria are met the leaning is to retention of employment space. In this instance and setting I am satisfied that the case can be made, I note above that the property was originally residential, and I am cognisant of a planning history which would enable (less intensive) residential use to be made of these premises in any event. I thus have no concerns with the principle of an office to residential use in the appeal premises.

Character and appearance

7. LP Policy D1 seeks, amongst other matters, to secure good design and protect local distinctiveness. The nature and scale of the planned alterations and extension work are thoughtfully designed and would not impinge upon the present appearance of the area. Furthermore, I am satisfied that these along with a move to residential use at the appeal property in these environs would not impart any harmful change of local character.
8. As I note above, the site lies in a Conservation Area. LP Policy D3 is relevant in that it seeks to conserve and enhance the historic environment. Importantly there is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

9. The appeal property is an attractive late Victorian/Edwardian building with simple but well-crafted detail albeit having an immediate setting lacking quality due to hard surfacing and boundary treatment. Using the building for residing and the well-designed and modest alteration and extension scheme would preserve character and appearance and hence not conflict with LP Policy D3 or the aims of S72(1) of the Act

Residential amenity

10. The planned works, distancing, and relative orientation are such that to my mind the scheme would not cause any unduly harmful impact to neighbours through over-shadowing, overlooking or loss of outlook.
11. I note that the proposed flats would accord with the Nationally Prescribed Space Standards and have a logical layout. Individual outdoor amenity space is largely lacking but I observe that this is not uncommon in this proximity to the town centre and outlook from the flats would be reasonable.
12. In these circumstances I conclude that there would not be conflict with Saved Policy G1(3) of the 2003 Local Plan which seeks to protect the amenity of the occupiers of dwellings both surrounding application sites and application sites themselves.
13. I should add that I am aware of the concerns of a neighbour over possible parking and access disruption during development. However, I would hope this would be minimised through good management, at worst it will be a temporary situation in any event, and in all the circumstances while I sympathise with local residents it would not be a reason to prevent development.

Highway safety and parking

14. I observed the existing vehicular access to be reasonable in width and visibility; movements may well be less than a previous office use; the County Highway Authority has raised no concerns; and overall I would deem the proposal to be acceptable in highway safety terms.
15. The scheme would provide for 5 car and 7 cycle spaces. The Council's normally applied standards would see 7 of each. However, in terms of cars this is a maximum and there is scope for reduction where, for example, public transport is well provided, as in this case here. The site also benefits from ready pedestrian access to the town centre with its wide-ranging facilities and train station. In the circumstances a degree of flexibility on parking numbers would be reasonable.

The environment

16. Given LP Policies D2 and ID4, Saved Policy G5, and the Sustainable Design and Construction SPD 2011 the Council seeks to secure carbon emission reduction, water efficiency, and biodiversity gains. The suggested approach the Council takes in the Officer's Report in terms of dealing with these matters via a planning condition would seem entirely logical to me and hence policy compliance and guidance conformity would be met.

Thames Basin Heath Special Protection Area (TBHSPA)

17. 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 advises that the proposal for additional residential units, 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.

18. However, the Council goes on to advise that the TBHSPA Avoidance Strategy provides a framework where an applicant can provide a contribution to the Sustainable Alternative Natural Green Space (SANGS) within the borough along with Strategic Access Management and Monitoring (SAMM) to mitigate the impact of the development.
19. The Appellant has offered to make the contribution in accordance with the Council's present tariff and the Legal Agreement referred to above encompasses this.
20. As I have found that the proposal is acceptable on all the other main issues, the Legal Agreement needs to be considered as a means of resolving the effect on the SPA
21. 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 the development plan. The proposal may therefore be permitted under the Habitat Regulations.

Conditions

22. The standard commencement period should apply. A condition that works are to be carried out in accordance with listed, approved, plans is put forward by the Council; I would agree to provide certainty. External materials should be agreed in the interests of visual amenity; as should suitable landscape and boundary treatment. Cycle parking facilities should be secured for purposes of protecting amenity and encouraging sustainable travel; electric charging facilities for cycles are not necessary not least as this is generally done in-home. Vehicle parking needs to the defined for amenity purposes.
23. On the matter of energy consumption / carbon reductions I would agree with the Council's proposition in the interests of sustainable development. I would also agree with the suggested water usage rate limitations and shall apply a condition accordingly in the interests of good management of water resources. The Council's suggestion of a condition to encourage biodiversity is sound in the interests of the environment.
24. I find the Council calls for a Site Waste Management Plan and a stated regime for handling any contamination to be unnecessary given the nature and position of the development. The Council's suggestion of an electric charging facility for every parking space would seem excessive to me and in any event market forces and other legislation may well determine its extent.

25. On occasions I include some variation from the wording set out by the Council in order to aid precision and accord with national guidance and legislation.

Overall conclusion

26. For the reasons given above I conclude that the proposal would not have unacceptable adverse effects on any of the main issues set out in paragraph 4 above and would accord with the development plan as a whole. The appeal is, therefore, allowed and planning permission is granted.

D Cramond

INSPECTOR

SCHEDULE OF CONDITIONS (9)

1. The development to which this permission relates shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 2108/PL.01 Rev A (Existing Floor Plans), 2108/PL.02 Rev A (Existing Elevations), 2108/PL.00 Rev B (Site Block Plan & Location Plan), 2108/PL.03 Rev C (Proposed Floor Plans) & 2108/PL.04 Rev C (Proposed Elevations)
3. No development above slab level shall take place until details and samples of the proposed external facing and roofing materials, including colour and finish, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be built in accordance with these approved samples.
4. No development above slab level shall take place until details of both hard and soft landscape proposals and all boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the development hereby permitted.
5. Prior to the first occupation of any 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 pertinent flat and maintained as operational thereafter.

6. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked. Thereafter the parking areas shall be retained and maintained for their designated purposes.
7. The residential units hereby approved shall not be occupied until they have achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum water consumption (to include a fixed factor of water for outdoor use of 5 litres per person per day for in accordance with the optional requirement defined within Approved Document G of the Building Regulations).
8. The development hereby approved shall not be first occupied unless and until facilities for the secure, covered parking of bicycles within the development site have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved facilities shall be retained.
9. Prior to the first occupation of the development hereby permitted, details of measures to provide local biodiversity gains such as bird and/or bat boxes, insect 'hotels', or other habitat enhancements, must be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed and maintained permanently thereafter.