



Appeal Decisions

Site visit made on 10 October 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal A

Appeal Ref: APP/C3620/W/23/3316107

Norbury View, Leatherhead Road, Bookham, Surrey KT23 4RR

- 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 Maddox Homes Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2022/1562, dated 5 September 2022, was refused by notice dated 5 December 2022.
 - The proposal is a residential development of 10 no. dwellings and associated access and landscaping, following demolition of existing dwellings (Norbury View and Sheader) and associated structures.
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Appeal B

Appeal Ref: APP/C3620/W/23/3320169

Norbury View, Leatherhead Road, Bookham, Surrey KT23 4RR

- 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 Maddox Homes Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2023/0152/PLA, dated 3 February 2023, was refused by notice dated 31 March 2023.
 - The proposal is a residential development of 9 no. dwellings and associated access and landscaping, following demolition of existing dwellings (Norbury View and Sheader) and associated structures.
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Decision – Appeal A

1. The appeal is dismissed.

Decision – Appeal B

2. The appeal is dismissed.

Procedural Matters

3. I have been appointed to determine two appeals on the same site, the details of which are set out in the banner heading above. The two schemes are broadly similar, although not identical; the most significant differences as far as the appeals are concerned are the number of dwellings, and the layout of the front part of the site around the proposed access from Leatherhead Road (though there are also differences of detail which I address when necessary). While I have considered each proposal on its own merits, to avoid repetition I have dealt with the two schemes together except where otherwise indicated.

4. The Government published a revised National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the version dating from July 2021. The amendments did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the September 2023 version.
5. The appeal site lies on the north side of Leatherhead Road, and encompasses the two detached houses "Sheader" and "Norbury View" (from west to east on the Leatherhead Road frontage) and their gardens. It also incorporates parts of the rear gardens of Nos 23 and 25 Browning Road to the north, giving the site approximately an "L" shape.
6. Both parties drew my attention to an appeal on the site¹ which was dismissed earlier this year ("the January 2023 appeal"). This related to a proposal for eight dwellings, rather than the nine and ten dwelling schemes which are before me now. Apart from this, the most relevant difference between the January 2023 appeal scheme and the two development proposals before me is that the earlier one did not include the house Sheader or its garden within the site boundary, though there are also considerable differences of layout and detailing. I address relevant matters arising in respect of the January 2023 appeal at the appropriate points of my reasons below.

Main Issues

7. The main issues in both appeals are the effect of the proposed developments on:
 - The character and appearance of the area; and
 - Living conditions for neighbouring residents, with particular regard to loss of privacy and whether the appeal scheme would be unacceptably overbearing.
8. For Appeal A only, a further main issue is the effect of the proposed development on protected species.
9. There are two additional main issues in Appeal B only:
 - Whether the proposed development would make acceptable provisions for surface water drainage; and
 - Whether the proposed development would include adequate car parking provision, with particular regard to the number of spaces and their functionality.

Reasons

10. Both proposals are for the demolition of Sheader and Norbury View, the creation of an access road into the site from Leatherhead Road (in slightly different places in the two appeals, but in both cases approximately on the boundary between the two existing dwellings' plots), and the erection of new housing. The Appeal A scheme proposes ten dwellings (five three-bedroom houses and five four-bedroom houses). The Appeal B scheme would see nine houses built (four with three bedrooms, and five with four bedrooms).

¹ PINS Ref: APP/C3620/W/22/3298872

11. In each case there would be a pair of semi-detached houses on Plots 1 and 2 and a detached house on Plot 3, facing the Leatherhead Road frontage (though the order is switched between the two proposals; Plot 3 in Appeal A is at the south-west corner of the site adjacent to Silver Birches, while in the Appeal B scheme that position would be taken by Plot 1). Plots 4 to 8 (in Appeal A) and 4 to 7 (in Appeal B) towards the west side of the site would each have a detached house. All of the houses up to this point are described as "two-storey dwellings with rooms in the roof". The remaining two plots towards the north-eastern corner of the site (Plots 9 and 10 in Appeal A, Plots 8 and 9 in Appeal B), would each have a one-and-a-half-storey dwelling described as a "chalet bungalow".

Character and appearance

12. The surrounding area is predominantly residential. Immediately west of the site is "Silver Birches", a detached house on Leatherhead Road. Behind Silver Birches, and adjoining the appeal site's western boundary, is a modern cul-de-sac development Beech Tree Close; to the east is another modern cul-de-sac development Walnut Tree Close. Both of those developments are accessed from Leatherhead Road. To the north, dwellings on Browning Road are within a mid- to late-20th century housing estate development.
13. Dwellings in the area are generally set well back within their plots, with mature planted front gardens. Across Leatherhead Road to the south are open fields, while Browning Road has broad grass verges with street trees. The area therefore generally has an open, spacious and verdant character; the large gardens within the appeal site boundary makes a positive contribution to this.
14. Most of the dwellings in the surrounding area are detached houses, though some are semi-detached, and I also saw a number of bungalows. There is not a particular dominant style of architecture or design along Leatherhead Road, and most of the dwellings appear generously-sized, spacious and well-kept, if essentially unremarkable. There is a greater consistency of form and design to the housing along Browning Road, although overall the character and appearance of the area reflects its varied nature.
15. There have been a number of developments of housing on infill or garden sites in the surrounding area – as well as Beech Tree Close and Walnut Tree Close there are other examples along Leatherhead Road in both directions from the appeal site. These have generally increased the housing density in the area, though I saw on my site visit that this is most evident in the interior of such sites; for the most part the development form and density along Leatherhead Road itself appears to be broadly in keeping with the remaining older houses (including Sheader and Norbury View). Notwithstanding that the need to create site access has perhaps resulted some narrowing of plots and houses along the main road frontages compared to the older development, the spacious character of the area has largely been retained.
16. In both appeals, the proposed layout at the entrance of the site would mean that when viewed from Leatherhead Road the house on Plot 4 would visually fill the space between the semi-detached pair of houses on Plots 1 and 2, and the detached house on Plot 3². While in both appeals there would be some tree

² Regardless of the fact that, as I have already described, the order of Plots 1 to 3 would be reversed between the two proposals.

planting in front of Plot 4 where the access road bends (in Appeal B this is described as a "biodiversity area"), this would not necessarily provide the "softening" effect which the appellant describes; planting may not thrive, can be removed and, depending on the species, may provide less screening at certain times of the year. Because of the sloping land, the house on Plot 4 would be at a slightly lower level than those on Plots 1 to 3, but the submitted streetscene elevations indicate that this would do little to alleviate the increased built mass which would be seen in passing the site.

17. The appellant referred to the softening effect of topography within Beech Tree Close and Walnut Tree Close, and suggested that the Council referred to this when granting planning permission for the nearby "Clover Down" scheme³. My reading of the officer report in that case does not quite support that interpretation, although it did refer to the fall in land levels across the Clover Down site, noted that the area "has been subject to considerable change over recent years", that permission for "the redevelopment of individual properties with multiple dwellings, in the form of cul-de-sacs layouts" had resulted in an "intensification of the grain of development", and that "the resultant form is now part of the established character".
18. In this case, however, neither the proposed planting nor the topography would prevent the developments presenting much more built-up and cramped frontages to Leatherhead Road than the other infill and garden developments which I saw in the area. This would be exacerbated in the Appeal A scheme by the semi-detached pair of houses appearing squeezed on the inside of the bend in the access road. That effect would be averted somewhat in Appeal B by the switching of the plots and dwellings to the Leatherhead Road frontage. However, that "gain" would in my view be cancelled out by the number of parking spaces proposed on either side of the site entrance, which would result in it having a rather hard and unsympathetic interface with the outside world. In both appeals therefore, the proposed development's frontage would be at odds with, and harmful to, the prevailing character and appearance of the streetscene on Leatherhead Road.
19. Both appeal layouts would also place the proposed chalet bungalows at the north-east corner of the site very close to neighbouring gardens and dwellings. This would go beyond relatively short side-to-side relationships which might be considered acceptable, all other things being equal, and instead would conflict with the prevailing open and spacious nature of the area. This would therefore cause further harm to the character and appearance of the area.
20. Within the site, I acknowledge that the falling topography would mean that the dwellings behind Plot 4 (Plots 5 to 8 in Appeal A, Plots 5 to 9 in Appeal B) would, to the extent that they would be seen at all, be lower in height and less dominant when viewed from Leatherhead Road. However, this would not mitigate the other harm which I have found. (It could also be noted that this may *increase* their dominance when viewed up the slope from the rear of the adjoining properties on Browning Road, although nothing before me indicates that this on its own might amount to causing significant harm.)
21. The appellant provided information in respect of other recent infill development in the area⁴. I have no reason to dispute the densities which were calculated

³ LPA Ref: MO/2021/1884

⁴ The *Backland Development Site Plans* submitted with each proposal

for those other schemes, nor to disagree with the appellant's view that the overall development densities proposed in these appeals would be comparable to those of the other nearby schemes. However, in this case I have found that specific harm would arise from the form and layout of the proposed developments, in particular in terms of how they would relate to Leatherhead Road, rather than from their density *per se*. This consideration would not therefore mitigate or outweigh the harm I have found.

22. I conclude for both appeals that the proposals would be harmful to the character and appearance of the area. The developments would therefore conflict with Policies ENV22, ENV23 and ENV24 of the 2000 Mole Valley Local Plan ("the MVLP"), Policy CS14 of the 2009 Mole Valley Core Strategy ("the MVCS"), and with Policies BKEN2 and BKH2 of the Bookham Neighbourhood Plan ("the BNP"), which was made part of the development plan in 2017. Together, and among other things, these policies seek to ensure that development respects and enhances the character of the area, including in respect of scale, form and appearance. I also find that the proposals conflict with the provisions of the Framework which aim to achieve well-designed places, notably paragraph 130 which seeks to ensure that development adds to the overall quality of the area, is visually attractive (including as a result of good layout), and sympathetic to local character.

Living conditions

23. In both appeals, the detached dwellings at the western side of the site (Plots 4 to 8 in Appeal A, Plots 4 to 7 in Appeal B) would have rear first-floor bedroom windows facing, and overlooking, the rear gardens of Silver Birches and Nos 8 to 10 Beech Tree Close. None of the evidence before me leads me to dispute the appellant's assertion that "garden depths of around 11m are commonplace in the surrounding developments, including in Beech Tree Close and Walnut Tree Close". However, the submitted drawings show that the rear elevations of these dwellings would be *at most* slightly more than 11m from the rear boundary; they would all have stepped rear elevations, and the first-floor bedroom windows would therefore be somewhat closer to the neighbouring gardens than suggested. This proximity would lead to there being a harmful loss of privacy for the occupiers of the neighbouring dwellings.
24. First-floor windows serving bedroom 1 in the chalet bungalow proposed for Plot 9 (Appeal A) or 8 (Appeal B) would overlook the rear garden of No 25 Browning Road to the north from a distance of around 6.3m, considerably less than the 11m or so which is suggested as typical for modern developments in the area. This would also result in a loss of privacy for neighbours.
25. First-floor windows serving bedrooms 1 and 3 on the east side of the chalet bungalow proposed for Plot 10 (Appeal A only – the equivalent dwelling proposed in Appeal B has different fenestration) would overlook the rear garden of No 21 Browning Road from a very short distance. Although the Council's officer report also referred to this dwelling's impact on properties Walnut Tree Close I find no harm in this respect, as the submitted drawings do not show first-floor windows directly overlooking those neighbouring gardens. Nevertheless, because of the relationship with Browning Road there would again be a harmful loss of privacy for neighbouring residents.

26. In the Appeal A proposal, the detached dwelling on Plot 3 would have a study window on the first floor of the side elevation, facing Silver Birches a short distance. The window would be only a short distance from the shared boundary, although it would look out onto the roof of an outbuilding and the deep side roof slope of Silver Birches beyond, and its closest relationship would be with the front garden of Silver Birches. While this window may therefore lead to some loss of privacy, or perceived loss of privacy, for the occupiers of Silver Birches, taken on its own it would be unlikely to be significantly harmful. However, it adds a further degree of harm to that which I have described in the preceding paragraphs.
27. The area is suburban in its nature and, while many of the houses in the area are on large and spacious plots, I accept that some degree of overlooking of neighbouring gardens is almost inevitably going to arise. In both appeal schemes, however, this would be at shorter distances than might typically be expected in the area, and would be from more than half of the proposed dwellings (seven out of ten houses in Appeal A, six out of nine in Appeal B). The degree and extent of overlooking would therefore go beyond what might reasonably be considered "incidental", and instead would cause significant harm to neighbours' living conditions.
28. Many of the existing plot boundaries around the appeal site have dense planting. Both appeal schemes also include additional hedge and tree planting along shared boundaries intended to soften and break up views. However, this cannot be relied on to provide or enhance privacy, and is not a reason to allow the appeals; as the Inspector put it in the January 2023 appeal decision, "planting and landscaping should therefore generally seek to complement a proposal and not in itself make an otherwise inappropriate development acceptable".
29. The Council's decision notices also referred to the proposed developments being overbearing. It was evident from the officer report that in Appeal A this concern related to the relationship between the proposed dwellings on Plots 3 and 4 and Silver Birches. For Appeal B, the officer report did not explain where the harm in respect of an overbearing impact might arise.
30. It appears from the submitted drawings for Appeal A that the proposed dwelling on Plot 3 would be a bit taller than the existing house Sheader. However, it would be separated from Silver Birches by an existing single-storey outbuilding, which would significantly reduce its impact. The appellant suggests that the house on Plot 3 would be around 15m from Silver Birches, and the house on Plot 4 would be around 40m away; visual comparison with other dimensions given on the submitted site plan suggests that this may be overstating the distances somewhat. Even so, the proximity and spatial relationships would be such that I do not find the proposed dwellings in Appeal A would be harmfully overbearing. Based on all the evidence before me, and my observations during my site visit, I also find no harm in this respect in Appeal B.
31. While I have found no harm in respect of the proposed developments being overbearing, I have found that both appeal schemes would lead to a harmful loss of privacy for neighbouring occupiers. Both proposals would have an adverse effect on neighbours' living conditions, and both appeal schemes would therefore conflict with Policy ENV22 of the MVLP and Policy BKH2 of the BNP.

Together, and among other things, these policies seek to ensure that new development (including infill and garden development) does not cause significant harm to neighbours' living conditions, including as a result of overlooking. For the same reason, there would be conflict with the provisions of the Framework in respect of achieving well-designed places, notably paragraph 130 which seeks to ensure that development has a high standard of amenity for existing and future users.

Protected species – Appeal A only

32. The Appeal A planning application was accompanied by an Ecological Impact Assessment⁵ ("the EcIA") which identified habitats present on the site and assessed their potential for protected species, particularly bats, birds, hedgehogs, badgers, dormouse, amphibians and reptiles. It concluded that the habitats on the site had the potential to support commuting and foraging bats, common bird species, and the European hedgehog, though it also found that the buildings and trees on the site have negligible potential for roosting bats.
33. The Council's officer report considered, in the light of comments by the Surrey Wildlife Trust ("the SWT"), that insufficient information had been submitted to demonstrate that the proposed development would not have an adverse impact on protected species. However, no substantive evidence is before me to contradict or cast doubt upon the findings of the EcIA. Indeed, the consultation response noted that the EcIA "appears appropriate in scope and methodology", and advised that the SWT considered that "bats do not appear to present a constraint to the proposed development". While the SWT response *did* highlight a lack of information in respect of biodiversity net gains, it also set out a series of suggested mitigation and enhancements (some of which had been put forward in the EcIA) which, had the development been acceptable in all other respects, could have been secured by a condition.
34. I therefore conclude that the Appeal A scheme would not harm protected species, and the proposed development would comply with Policy ENV15 of the MVLP and Policy CS15 of the MVCS. Together, and among other things, these policies seek to protect and enhance local biodiversity, including protected species and their habitats. The proposal would also comply with the provisions of the Framework in respect of biodiversity.

Surface water drainage – Appeal B only

35. Surface water runoff within the development would discharge to conventional soakaways and permeable paving systems. The submitted Flood Risk and Drainage Strategy Report⁶ indicates that this would "greatly reduce the surface water runoff leaving the site [to levels in line with greenfield runoff rates], and therefore reduce flood risk at the site". The Council's drainage consultant considered the design of the scheme to be "mostly fine" but sought further information relating to the local soil type (in respect of infiltration rates), and an amendment to the proposal to provide a "cut-off drain" which would intercept any surface water running into the site from the public highway at Leatherhead Road.

⁵ *Ecological Impact Assessment*, September 2022, Darwin Ecology

⁶ *Flood Risk & Drainage Strategy Report*, February 2023, Dixon Hurst

36. The appellant provided a response to the Council on these matters before the planning application was determined⁷. This provided infiltration results for a soakaway trial pit on the site, and an amended drainage drawing proposing a cut-off drain (discharging to a soakaway) at the site entrance. At the time the Council made its decision it had not received comments from its drainage consultant in respect of this further information, nor did it subsequently address it in its appeal statement. There is nothing before me to suggest that the information and amendments put forward would not resolve the matter.
37. The Council's drainage consultant raised other points relating to the siting of a foul water pumping station, connections to foul manholes, and the need for flood exceedance and drainage maintenance plans. These could, were the development acceptable in all other respects, be secured by conditions.
38. Subject to such conditions, I conclude that the Appeal B scheme would make acceptable provisions for surface water drainage. The proposal would therefore comply with the requirements of Policy CS20 of the MVCS which seeks to manage flood risk by, among other things, supporting the use of appropriate sustainable drainage systems and measures which work towards mimicking greenfield runoff situations. For the same reason, it would comply with the provisions of paragraph 167 of the Framework in respect of flood risk.

Car parking – Appeal B only

39. Policy BKH3 of the BNP sets minimum standards for the number of off-street parking spaces to be provided in new residential developments within the village. The supporting text to the policy explains that not only were many of Bookham's roads not designed to accommodate on-street parking, and therefore even a small increase in the number of vehicles parked on the streets can create hazards, among village residents there are more cars and vans per person (across all age groups) than in Mole Valley as a whole. The policy therefore requires a higher level of parking provision than is sought elsewhere in the district.
40. The proposed Appeal B development would provide 22 off-street parking spaces, exactly meeting the total sought by Policy BKH3 which requires two spaces for each two- or three-bedroom dwelling, and three spaces for each dwelling with four or more bedrooms. Each space would be close to, and convenient for access to, the house it would serve. I note also that the Highway Authority raised no objections in terms of highway safety, capacity or any policy provisions.
41. The Council drew my attention to the January 2023 appeal decision, in which the Inspector "[could not] entirely rule out the prospect that there could be an on-going demand for vehicle parking over and above that [proposed]", and that in view of the scale of development and layout "any such parking demand would be most likely to manifest itself in vehicles being parked around the turning head or on footpaths or areas of landscaping within the site". However, my predecessor was assessing a situation in which the proposal fell short by three spaces of meeting the minimum standard; this is not a consideration which applies in this case, and my reaching a different view on this issue is entirely justified. My conclusion on this matter is also notwithstanding my findings in respect of the visual impact of some of the proposed car parking

⁷ E-mail from appellant to LPA dated 22 March 2023

provision, which I have addressed in considering the issue of character and appearance above.

42. I conclude that the Appeal B scheme would make adequate provision for car parking, both in terms of the number of spaces proposed and their functionality. The proposal would therefore comply with Policy BLH3 of the BNP, the principal requirements of which I have set out in paragraphs 39 and 40 above. I find no conflict in this respect with the provisions of paragraph 130 which require development to function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.

Other Matters

43. As I have already described, both main parties referred in some depth to the January 2023 appeal decision, and the Council has acknowledged that the revised schemes address some of the points made by the Inspector in that decision. As well as the differences in the extent of the site, there are also notable differences between that proposal and these two appeal schemes in terms of site layout and the relationships with surrounding properties. While I have had regard to relevant matters from the earlier appeal, I have of course reached my conclusions in these appeals based on their specific planning merits.
44. There were a wide range of issues in respect of which the Council raised no concern including the principle of a residential redevelopment of the site, as well as matters such as the proposed dwelling mix, living conditions for future occupiers and waste management, among other things. There is no substantive evidence which leads me to take a different view on any of these issues, though a lack of harm in these respects is a neutral factor rather than a positive consideration in favour of the appeal schemes.
45. The planning applications and appeal notifications attracted several comments from interested parties living nearby, almost all of which were objecting to various elements of the two proposals. To the extent that those consultation responses raised material matters, I have addressed them in my reasons above. None of the other matters raised have altered my overall conclusions.

Planning Balance and Conclusion

46. There is no dispute between the main parties that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites; the evidence before me indicates that the Council's housing land supply currently stands at 2.9 years. The 2022 Housing Delivery Test figures show that the Council had met only 70% of its housing requirement over the most recent three-year period.
47. There is therefore also no dispute that the "tilted balance" set out in paragraph 11(d) of the Framework is engaged. This means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
48. The Framework seeks to significantly boost the supply of housing; it also highlights the important contribution small sites can make to meeting the housing requirement of an area, and notes that they can often be built-out

relatively quickly. The net gain of eight (Appeal A) or seven (Appeal B) dwellings which would result from the proposed developments would make a modest contribution to boosting the supply of homes within Mole Valley, although given the Council's housing land supply and delivery position I give this considerable weight.

49. The proposals would also bring short-term construction employment benefits relating for a small local house builder, along with knock-on economic benefits to building suppliers and contractors. Further occupiers would also be likely to provide support to local facilities, services and businesses in the longer-term. Given the small scale of the scheme these benefits, in total, carry moderate weight in favour of the proposal.
50. I have found that there would be no harm in respect of protected species (for Appeal A), or surface water drainage or car parking (for Appeal B). These are neutral factors in the overall planning balance.
51. I have also found that the proposed developments would be harmful to the character and appearance of the area, and to living conditions for neighbouring residents. There would be conflict with the provisions of Chapter 12 of the Framework, which clearly seek to protect these matters. Harm caused today in these respects would be likely to endure for many years into the future, and probably for the lifetime of the proposed developments. I therefore give these harms substantial weight in the overall balance.
52. Overall, I consider that the harm from the developments would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. The proposals would not therefore amount to sustainable development in the terms set out in the Framework.
53. Section 38(6) of the Planning & Compulsory Purchase Act 1990 and the Framework state that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
54. The proposed developments conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, that indicate the proposals should be determined other than in accordance with the development plan.
55. I therefore conclude that both appeals should be dismissed.

M Cryan

Inspector