

Appeal Decision

Site visit made on 6 December 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/Y3615/W/23/3322135

Land to the rear of 164 to 176 New Road, Chilworth, Guildford GU4 8LX

- 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 BlackOnyx Projects Limited against the decision of Guildford Borough Council.
 - The application Ref 22/P/01831, dated 21 October 2022, was refused by notice dated 26 April 2023.
 - The development proposed is erection of 3 no. two storey dwellings with associated parking and landscaping together with formation of vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 3 no. two storey dwellings with associated parking and landscaping together with formation of vehicular access at land to the rear of 164 to 176 New Road, Chilworth, Guildford GU4 8LX in accordance with the terms of the application, Ref 22/P/01831, dated 21 October 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. On 19 December 2023, a revised National Planning Policy Framework (the Framework) was published. Those parts of the Framework most relevant to this appeal have not been significantly amended. As a result, there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach. I will refer to the updated paragraph numbers where necessary in this appeal.
3. During the application process, the appellant and Council agreed to amend the description of the development. The amended description is accurate, and I have therefore used it in the banner heading and decision above.
4. The Council has brought to my attention that some of the plans¹ submitted as part of the appeal, labelled as Revision A, were not the most up to date versions of those plans and that a Revision B was considered during the application process. However, the Council has also confirmed there to be no material difference between the revisions of these plans in terms of the proposal. The revised plans simply include some dimensions and floor areas. From the evidence before me I am of the same view. For the avoidance of doubt, I have determine the appeal based on the plans labelled as Revision B².

¹ Drawing Nos: P.1.e Rev A; P.1.p Rev A; P.2.e Rev A; P.2.p Rev A; P.3.e Rev A; P.3.p Rev A.

² Drawing Nos: P.1.e Rev B; P.1.p Rev B; P.2.e Rev B; P.2.p Rev B; P.3.e Rev B; P.3.p Rev B.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

6. New Road is the principal road running through Chilworth. It is mostly fronted on both sides by two-storey dwellings, and the surrounding area is largely residential. The appeal site is located to the rear of some of the existing dwellings on the northern side of New Road. The section of New Road where it would be accessed from, consists of regularly spaced dwellings set back from the highway predominately behind hedging. The dwellings are moderate in size with long rear gardens. There are views, over and between the dwellings, of trees within their rear gardens, as well as the wider countryside beyond, which provides a green backdrop to the houses and to the village as a whole. Together with the soft front boundary treatments, this creates a spacious and green character.
7. Infill development is also a feature of the surrounding area, and there are several existing developments to the rear of the houses on the northern side of New Road. The nearest to the appeal site being St Thomas Close.
8. The appeal proposal is a revised application following a previous scheme on the appeal site, which was refused by the Council and subsequently dismissed at appeal³. However, the refused scheme is quite different to the appeal proposal before me. It consisted of two more dwellings than the appeal proposal, five in total. It also had a different layout, which the previous Inspector considered would fail to have regard to the alignment and pattern created by other completed infill schemes in the locality.
9. The layout of the appeal proposal, with the three proposed dwellings fronting the rear gardens of the dwellings on New Road, follows a similar pattern of development to the nearest infill scheme, Nos 21-28 St Thomas Close. Although the plots of the proposed dwellings would be modest, they would be a similar size to the plots for Nos 21-28 St Thomas Close and there would be a comparable amount of space overall for soft landscaping. Moreover, views of houses behind those on the northern side of New Road is an established characteristic of the area. For these reasons the proposal would be in keeping with other nearby infill development and would not appear cramped.
10. The proposal would result in the loss of existing trees, hedging, and planting that currently bound the appeal site. Nonetheless, the Arboricultural Impact Assessment, prepared by Aspect Arboriculture, dated October 2022, identifies these trees as low quality, and there would be sufficient space on the site for some meaningful replacement planting, which would mitigate their loss. In addition, I saw that the nearby infill dwellings, Nos 21-28 St Thomas Close, are partly visible through the gaps between the houses on New Road. However, that they are softened by intervening trees in the rear gardens and, given the rise of the land to the north, they do not obstruct views of the wider countryside. Thus, they have a limited effect overall on the spacious and green character of the area. The effect of the proposal would be similar.

³ Application Ref: 21/P/01761, Appeal Ref: APP/Y3615/W/21/3287773

11. While the removal of the existing hedges between Nos 174 and 176 New Road would reduce the amount of greenery in the street scene, some of the greenery within these frontages would be retained and thus, the overall reduction and its effect would be limited.
12. Notwithstanding this, the loss of the hedges would open up views from New Road along the proposed access road into the appeal site. Given the restricted width of the proposed access road, there would be little or no opportunity for any soft landscaping along it and I note that no planting is shown on the submitted plans. However, while this could appear stark in isolation, unlike the previous refused application, views along the access road would be of the frontage of the dwelling on Plot 3, which includes some soft landscaping. This would help create a positive entrance to the site and the view would also include trees within the neighbouring gardens and the green backdrop of the wider countryside. Therefore, although there may be a noticeable change in appearance, the effect of the proposal on the spacious and green character of the wider area would be limited and would not result in any appreciable harm.
13. The proposed access road would be narrower than the other roads and lanes in the area that provide access to infill development behind the houses on the northern side of New Road. Nonetheless, the narrowest section would not be overly long. The characteristics of access roads in the immediate area vary. Brookwood and Brook Road on the southern side of New Road, close to the appeal site, are not standard highways. They have no pavements and are not dissimilar in width to the proposed access road. Moreover, many of the properties on the north side of New Road have long drives that run alongside the houses to the rear. Thus, the width of the proposed access road would not appear overly narrow or out of keeping in the street scene nor would it result in the proposal appearing cramped.
14. I note that interested parties have commented on the lack of a street scene drawing showing the view of the proposed development from New Road, and I appreciate that these types of drawings can aid in understanding the effects of a proposal. However, based on the plans and documents before me and my own observations, I am satisfied that there is sufficient information to assess the proposal in this case.
15. Accordingly, for the reasons above, the proposal would not harm the character and appearance of the area. It would accord with Policy D1 of the Local Plan: Strategy and Sites (2019) and Policy D4 of the Local Plan: Development Management Policies (2023) (2023 Local Plan). These seek to ensure that all development achieves high quality design that responds and contributes to the distinctive local character of the area, including appropriate residential densities. It would also accord with Policy D8 of the 2023 Local Plan, which seeks to ensure that residential infill development integrates well with its surroundings and responds positively to the existing character and identity of the local area by, amongst other things, creating a positive street entrance.

Other Matters

16. I have taken careful account of the representations of those nearby, including in respect of the effect of the proposal on highway safety, flooding, and biodiversity.

17. I appreciate the proposed access road includes a narrow section and that initially concerns were raised by the Council's Operational Services Team regarding the suitability of the access for refuse vehicles. Nonetheless, the scale of the proposal is modest and would therefore be unlikely to result in a significant number of vehicle trips. Drawing No: 8210126/6101 demonstrates that adequate visibility zones can be provided. These can be secured and maintained by condition. Two parking spaces are proposed for each of the new dwellings, in line with the Council's parking standards. Although there would not be an ample amount of space for additional vehicles on the site, there would be enough space in the proposed layout to allow other vehicles, such as delivery vehicles, to park and manoeuvre. I am therefore not of the view that unacceptable effects would result in this regard.
18. Furthermore, the Council consider the positioning of the bin collection point, close to the site entrance, to be acceptable in this instance, and the Highway Authority, who interested parties recognise as being aware of the local road conditions, considers the proposal would not have a material impact on highway safety. I can find no reason to disagree.
19. The traffic associated with the construction of the development could be managed through a Construction Transport Management Plan to ensure best construction practices. The preparation and adherence with the Construction Management Plan could be required by condition.
20. I have before me, a Flood Risk and Drainage Statement (FRDS), prepared by Glanville, dated 19 October 2022, which was submitted as part of the application and includes an indicative drainage strategy. The FRDS shows the appeal site to be largely at a very low risk of surface water flooding. It proposes flood mitigation measures, including raising building floor levels above the relevant surface water flood level, and a positive and sustainable surface water drainage strategy. Subject to the implementation of the mitigation measures and drainage strategy being secured by a condition, the report concludes that the site can be developed safely without increasing flood risk elsewhere. Given this, I am not of the view that unacceptable effects would result in this regard.
21. With regards to Biodiversity, an Ecological Appraisal (EA) prepared by Aspect Ecology, dated October 2022 was submitted to support the application, which included a survey to establish the presence or absence of reptiles. It sets out mitigation measures to protect species and habitats and recommends ecological enhancements to achieve biodiversity net gains.
22. The surveys supporting the EA were undertaken more than 30 months ago. However, there is no substantive evidence before me to suggest I should afford them limited weight on this basis. The data was considered by an ecologist and found to still be valid when the application was made, and the management of the site does not appear to have changed significantly since the original surveys were undertaken. More importantly, the mitigation measures set out in the EA require a destructive search for reptiles under the supervision of a competent ecologist to be undertaken when clearing suitable habitat. Therefore, subject to the mitigation measures and ecological enhancements being secured by condition, I am satisfied that any protected species would be safeguarded, and no unacceptable effects would result in this regard.

23. Furthermore, the Surrey Wildlife Trust did not recommend any further actions were undertaken at application stage, rather they recommended further conditions that could be imposed on any permission to help secure the protection of species and habitats during the development process, including a Reptile Mitigation Strategy. These conditions would be pre-commencement to ensure species and habitats were protected throughout the development process, as would the condition requiring a scheme of ecological assessment to demonstrate compliance with the mitigation measures and implementation of the ecological enhancements set out in the EA.

Conditions

24. The Officer Report recommends 22 conditions be imposed, which I conclude on below. In imposing conditions, I have had regard to the approach in the Framework and the Planning Practice Guidance. I have accordingly modified the wording or form of certain conditions without altering their fundamental aims. The numbers given in brackets (x) refer to the conditions being imposed, with the order being prescribed by the time when the condition needs to be complied with.
25. In addition to the statutory time limit condition (1), a condition specifying the plans that are approved and that the development shall be undertaken in accordance with them (2) is required in the interests of certainty. I have referred to Revision B of Drawing Nos: P.1.e, P.1.p, P.2.e, P.2.p, P.3.e, P.3.p, as these are the most up-to date versions and there is no material difference between Revision A and Revision B in terms of the proposal. Also, for reasons of certainty, a condition requiring details of the site, finished floor and ridge levels is necessary (4). This condition must be pre-commencement as the finished levels could affect the fundamental design of the proposal. This condition has been agreed by the appellant.
26. In the interests of highway safety, a condition is necessary to ensure the preparation of and accordance with a Construction Transport Management Plan (3). This condition must be pre-commencement so that it covers the whole development process. This condition has been agreed by the appellant. For the same reason it is necessary to also impose conditions requiring the provision of the vehicular access, including the visibility zones (16), and parking and turning areas (17) prior to occupation of the development and their future maintenance.
27. To protect retained trees during the development works, a condition is necessary to ensure the preparation of and accordance with a scheme for their protection and appropriate working methods (5). I have removed the second part of the condition regarding the detailed implementation of the scheme as these requirements should be set out in the scheme itself. This condition must be pre-commencement so that the trees are protected during the whole development process. This condition has been agreed by the appellant.
28. To protect the character and appearance of the area, it is necessary to impose a condition requiring details and samples of the external surfaces of the development (11). It is also necessary to impose a condition requiring the preparation of and accordance with a hard and soft landscaping scheme (6). To make the condition recommended by the Council more precise I have required an implementation programme as part of the scheme. The details of the scheme could affect the fundamental design of the proposal and therefore this

condition must be pre-commencement. The condition has been agreed by the appellant. Also, to protect character and appearance of the area, as well as to ensure adequate living conditions for future residents, a condition requiring the details of the proposed bin collection area (19) and adherence with those details is also necessary.

29. To safeguard protected species and habitats and enhance biodiversity, it is necessary to impose conditions requiring the preparation of and accordance with a Reptile Mitigation Strategy (8), Construction Environmental Management Plan (9) and scheme of ecological enhancement (10). These conditions must be pre-commencement as the required mitigation measures span the whole development process. These conditions have been agreed by the appellant.
30. To be certain that the development does not increase flood risk on or off the site, a condition is required to ensure that the recommended mitigation measures set out in the FRDS are complied with (12). I have amended the condition recommended by the Council in order to add some flexibility, in case an alternative drainage scheme is found to be more suitable for the site.
31. To protect the living conditions of future occupants, it is necessary to impose a condition requiring details of the sound insulation of the building envelope of each dwelling and an alternative ventilation scheme (13). This would need to be installed prior to occupation. Therefore, it is not necessary for the condition to be pre-commencement. There is also no need to duplicate the function of Building Regulations. It is set out in the Council's email enclosing its statement of case, dated 19 October 2022, that a revised version of this condition was included on a late sheet to committee. The revised condition requires the site to be assessed for noise impact. However, a Noise and Vibration Assessment (NVA) prepared by Cole Jarman, dated October 2022, Report 206/0130/R1-1, was submitted as part of the application. There is no substantive evidence before me that the NVA is in any way flawed. As such, this revision is unnecessary and unreasonable.
32. In the interests of mitigating and adapting to climate change, it is necessary to impose a condition to ensure that the efficiency measures in the Sustainability and Energy Statement (2022) and Climate Change and Sustainable Development Questionnaire are implemented and maintained (14) and also that the development meets the Building Regulations optional water efficiency requirement (15). However, there is no need to duplicate the function of Building Regulations by requiring a copy of the wholesome water consumption calculation. For the same reason, a condition requiring the preparation of and accordance with a Waste Minimisation Statement is also necessary (7). This condition must be pre-commencement so that it covers the whole development process. The condition has been agreed by the appellant.
33. To encourage active and sustainable travel, a condition is necessary to require secure and covered parking for bicycles and charging for e-bikes (18). I note that the Council have also suggested a condition be imposed to provide fast charge electric vehicle charging sockets. However, the Council has not set out why this condition would be necessary, given that the requirements for installing electric vehicle charge points in new homes now form part of Building Regulations. Policy ID10 of the 2023 Local Plan recognises this and requires the provision of electric vehicle charging to provide at least the minimum requirements set out in the Building Regulations. There is no evidence before

me that these regulations and controls would not satisfactorily deal with this matter. Therefore, in the absence of any justification to the contrary, the condition would not be necessary.

Conclusion

34. For the reasons above, I find that the proposal would be in accordance with the development plan, read as a whole. It has not been demonstrated that there are any material considerations of sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. The appeal is therefore allowed subject to the conditions in the schedule below.

Hannah Guest

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LP.02 Rev A; ESL.02 Rev A; P.1.e Rev B; P.1.p Rev B; P.2.e Rev B; P.2.p Rev B; P.3.e Rev B; P.3.p Rev B CSS.02 Rev A; SL.02 Rev D; RSL.02 Rev C; 8210126/6101 Rev C.
- 3) No development shall take place until a Construction Transport Management Plan (CTMP) has been submitted to and approved by the Local Planning Authority. The CTMP shall include details of:
 - parking for vehicles of site personnel, operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials;
 - measures to prevent the deposit of materials on the highway; and
 - on-site turning for construction vehicles

The approved CTMP shall be adhered to throughout the development process.

- 4) No development shall take place until details of existing and proposed site levels, finished floor and ridge levels of the buildings to be erected, and finished external surface levels with datum points have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.
- 5) No development shall take place until a scheme for the protection of retained trees on land adjacent to the site that could be affected by the development (Tree Protection Plan) and the appropriate working methods (Arboricultural Method Statement) in accordance with British Standard 5837:2012: Trees in relation to design, demolition and construction – recommendations (or an equivalent British Standard if replaced) have been submitted to and approved by the Local Planning Authority. The approved scheme for the protection of trees shall be carried out and adhered to throughout the development process and until all equipment machinery and surplus materials have been moved from the site.
- 6) No development shall take place until details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - new tree planting, including species type, number and size;
 - proposed boundary treatments for all boundaries of the site, including along the access road and at the entrance to the development;
 - hard surface materials;
 - an implementation programme and scheme of management; and
 - a schedule of landscape maintenance for a minimum period of five years.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and maintained in accordance with the approved scheme of management.

If, within a period of 5 years from the date of planting, any tree or plant (or any tree or plant planted in replacement of them) is removed, uprooted, destroyed or dies or becomes seriously damaged or defective, another tree or plant of a similar size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or plant.

- 7) No development shall take place until a written Waste Minimisation Statement (WMS), confirming how demolition and construction waste would be recovered and reused on site or at other sites has been submitted to and approved in writing by the Local Planning Authority. The approved WMS shall be adhered to throughout the development process.
- 8) No development shall take place until a Reptile Mitigation Strategy (RMS) has been submitted to and approved in writing by the Local Planning Authority. The RMS shall include:
 - a map showing the results of reptile surveys;
 - a precautionary method of works;
 - a map showing the location of receptor sites; and
 - a carrying capacity assessment of the receptor site(s).

The approved RMS shall be adhered to throughout the development process.

- 9) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP should include:
 - a map showing the location of all the ecological features;
 - a risk assessment of the potentially damaging construction activities;
 - practical measures to avoid and reduce impacts during construction;
 - the responsible persons and lines of communication; and
 - details of protection fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to throughout the development process.

- 10) No development shall take place until a scheme of ecological enhancement based on the mitigation measures and biodiversity net gains specified in the Ecological Appraisal prepared by Aspect Ecology dated October 2022 shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that a biodiversity net gain will be achieved by the development. Prior to first occupation of the development hereby permitted the scheme shall be implemented in accordance with the approved details and thereafter maintained.

- 11) Prior to the commencement of works above slab level, details and samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and samples.
 - 12) Prior to first occupation of the development hereby permitted, the proposed drainage schemes for the disposal of surface and foul water, including flood risk mitigation measures, shall have been implemented in accordance with the Flood Risk and Drainage Statement prepared by Glanville, Ref: 002_8220770_JB_FR_&_Drainage_Statement, Issue 1: 19 October 2022 or alternative drainage schemes submitted to and approved in writing by the Local Planning Authority. The approved drainage schemes shall be maintained operational thereafter.
 - 13) Prior to first occupation of the development hereby permitted, sound insulation of the building envelope of each dwelling shall be fully installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate that the sound insulation would be able to achieve the following maximum internal ambient noise levels:
 - 35 dB LAeq, 16hour in the living rooms and bedrooms from 07:00 to 23:00
 - 40 dB LAeq, 16hour in the dining rooms/area from 07:00 to 23:00
 - 30 dB LAeq, 16hour in the bedrooms from 23:00 to 07:00
- The details shall include an alternative ventilation scheme for each dwelling.
- 14) Prior to first occupation of the development hereby permitted, the energy efficiency measures set out in the Sustainability and Energy Statement prepared by Bluesky Unlimited, dated 20 October 2022 and the Climate Change and Sustainable Development Questionnaire shall be implemented and maintained as operational thereafter.
 - 15) Prior to first occupation of the development hereby permitted, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
 - 16) Prior to first occupation of the development hereby permitted, the proposed vehicular access shall have been constructed and provided with the required visibility zones in accordance with the approved plans, Drawing No: 8210126/6101 Rev C. Thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6 metres high.
 - 17) Prior to first occupation of the development hereby permitted, the proposed vehicle parking spaces and turning areas to allow vehicles to enter and leave the site in a forward gear shall have been constructed in accordance with the approved plans. Thereafter the vehicle parking spaces and turning areas shall be retained and maintained, available at all times for their designated purposes.

- 18) Prior to first occupation of the development hereby permitted, the proposed secure and covered parking for bicycles shall have been constructed and charging points for e-bikes shall have been installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Thereafter the parking for bicycles and charging points shall be retained and maintained, available at all times for the parking and charging of bicycles.
- 19) Prior to first occupation of the development hereby permitted, the proposed bin collection area shall be installed in accordance with details previously submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate that the bin collection area shown on Drawing No: SL.02 Rev D would accommodate 6 standard wheelie bins and 3 food waste caddies. Thereafter the bin collection area shall be retained and maintained in accordance with the approved details, available at all times for the storage of refuse bins.