



Appeal Decision

Site visit made on 5 February 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2024

Appeal Ref: APP/Y3615/W/23/3320001

4 Worplesdon Road, Guildford GU2 9RL

- 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 Choudhary and Mandozai Properties Ltd against the decision of Guildford Borough Council.
 - The application Ref 22/P/01036, dated 10 June 2022, was refused by notice dated 13 March 2023.
 - The development proposed was described as 'extension, remodelling and change of use from financial services use (A2) to residential and erection of 2 blocks of residential units at rear to provide 3 residential terraced units and 6 flats (9 units in total) with associated 11 off street parking spaces'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether there would be sufficient space to park and turn vehicles so they could safely enter and exit the site in a forward gear;
 - whether satisfactory electric vehicle charging points would be provided on the site;
 - the effect of the proposal on trees; and
 - its effect on the living conditions of some occupants of Wood Court, having regard to outlook and natural light and to noise and disturbance from a cycle store and two bin stores.

Reasons

Space for parking and turning vehicles

3. Means of access to and from the site with Worplesdon Road is staggered across a pavement with a separate cycle lane and over a tarmac verge with raised kerb edged planters either side. It is on a slight incline to the roadside next to a busy signalised main cross-road junction with controlled pedestrian crossing point. This is a complex configuration. There is no dispute that vehicles entering the site need to turn within it and exit in a forward gear.
4. Most of the required eleven car parking spaces would be at the bottom end of the site, mainly in two parallel rows at 90 degrees to each other separated by a manoeuvring area with one space (No.9) inset behind. The appellant believes this would give sufficient space for cars to use all nine of these spaces and turn

in this part of the site. This is because the proposed layout shows a 6m separation distance between the opposing spaces as set out in Manual for Streets (MfS)¹ and to a boundary fence opposite space No.9.

5. However, the MfS example shows this layout of spaces approached from a parallel road 6m wide. Whereas here they would be approached on a tight, right-angle bend from a long, narrow approximately 3m wide drive, potentially with on-coming vehicles attempting to exit the site. This part of the site is also on a more significant gradient, so would demand more precise car control to use spaces or manoeuvre in this confined, awkward L-shaped space.
6. Even if turning into or out of space No.9 could 'easily' be achieved by cars clipping across a path and without colliding with a parked car in space No.8 next to it, this narrow 1m wide route would be the only pedestrian exit to Worplesdon Road. Front entrance doors of two houses would open directly into the manoeuvring area or close to parking spaces and parked cars either side, especially space No.1. The other door would not be set back very far.
7. In the absence of objective evidence to the contrary, such as a tracking (swept-path) plan and report prepared by a relevant competent person, this juxtaposition of drive, car parking spaces, parked cars, manoeuvring area, path, houses, boundary fence and slope would create circumstances hazardous to pedestrians, especially infirm and older persons or children. It would also not be conducive to car drivers, especially unfamiliar visitors, who might otherwise be inclined to reverse along the drive, across the pavement, cycle lane, verge and into Worplesdon Road. There is also no such evidence that delivery or service vans larger than cars could turn in this (or any) part of the site, as the appellant contends. Nor is it said that these vehicles would not need to enter the site, including in connection with the retained Class E(c) commercial use².
8. I am informed that 17 cars parked on the site when last used as a bank. But the bottom end of the site contains no buildings, so there was more space then to conveniently park and turn cars or to turn service or delivery vans.
9. Consequently, the appellant has failed to demonstrate that there would be sufficient space to park and turn vehicles so they could safely enter and exit the site in a forward gear. The proposal is therefore contrary to Guildford Borough Local Plan: Strategy and Sites April 2019 (LPSS) Policy ID3. It includes that development should provide safe walking routes, suitable access that maintains safe operation of road networks and parking that does not adversely impact road safety or the movement of other road users.

Electric vehicle charging points

10. The appellant states that 'passive and active' electric vehicle charging points 'could be introduced at the site'. However, no detail or further explanation about what is actually intended has been given or shown on a plan. As a result, it is not clear to me how these charging points would relate to where cars would be parked or to the position of the flats or houses and if they could, in fact, be conveniently provided. I am already concerned about the extent of development on the site vis-à-vis available space for parking or turning vehicles. Because this issue also goes to the principle of the proposed layout

¹ Manual for Streets March 2007

² Class A2 was incorporated into Class E on 1 September 2020 (Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020)

and needs to be resolved before a decision to grant planning permission, it cannot be relegated to a condition as the appellant suggests.

11. I am not, therefore, satisfied the appellant has demonstrated that satisfactory electric vehicle charging points would be provided on the site. In these circumstances the proposal is contrary to LPSS Policy D2 which includes that development should enable sustainable lifestyles for occupants of buildings by using electric car charging points.

Trees

12. There are trees next to boundaries and parts of the site towards the rear where new buildings and potentially new or resurfaced hardstandings are proposed. They are not protected by a Tree Preservation Order or by location in a conservation area and have little wider public appreciation. Nevertheless, they are part of a line of trees that separate development in Worplesdon Road from houses behind it and, in this case, either side of the site so albeit in a small way have visual amenity and screening value. It is therefore appropriate to ensure adequate provision is made for the preservation of these trees³.
13. However, their position and extent has been shown diagrammatically or indicatively in the submitted plans, which do not include a topographic site survey. Using the canopy spread as a rough proxy, and in the absence of objective evidence to the contrary, it is evident that parts of the proposal may infringe root protection areas (RPA) and if so potentially cause harm to some or all these trees.
14. The appellant agrees mitigation measures may be necessary and suggests piled foundations, protective fencing and ground protection mats. But there is no objective evidence to underpin these measures, such as a tree impact assessment prepared by a relevant competent person in accordance with BS 5837:2012⁴. As a result, even if only a small part of a new structure was within an RPA, I cannot be certain that it would not have an adverse effect or that the suggested mitigation would be appropriate and effective. It could not be left to a condition because this issue is also relevant to the layout of the development in this case, so fundamental to a decision to grant planning permission.
15. Accordingly, the appellant has not demonstrated that the proposal would cause no unacceptable harm to trees. As such, the proposal is contrary to LPSS Policy D1 which includes that development should respond to its distinctive local landscape setting.

Living conditions - Wood Court

16. The existing building is over two floors across most of the site at the front with a long, narrower single-storey flat roof rear wing. The three-storey block of flats at Wood Court is close to the intervening boundary with the site, separated by the narrow drive. This gives an enclosed visual and spatial feel between this arrangement of buildings. As well as kitchens and bathrooms, flats have rear and side habitable room windows next to this part of the site.
17. However, the eaves level of the proposed first floor rear extension, despite resulting in two floors of living accommodation, would not be materially taller

³ Section 197(a), Town and Country Planning Act 1990 (as amended)

⁴ Trees in relation to design, demolition and construction – Recommendations

than the unusually high eaves level of the rear wing. A shallow pitched fully hipped roof would rapidly slope away from Wood Court with the maximum height of the long ridge line set a long way back from the common boundary. The rear wing would be partially demolished to reduce bulk and significantly shortened so that the two-storey part of the rear extension was inset well behind the rear elevation of Wood Court, then step down to single-storey and a flat roof with lowered eaves level in-line with this part of Wood Court.

18. A detached square block of two flats would be positioned further in-depth, about mid-way down the site. Eave and ridge dimensions and roof form of this two-storey building would in essence be similar to the first floor rear extension, though sit lower down on this more sloping part of the site. There would be a large gap between the new rear wing and this block and between the block and the side or rear elevation of Wood Court, including that it would be off-set to one side so not in any direct line of sight from windows in Wood Court.
19. Consequently, while there would be increased or new built form on some parts of the site it would not be excessively high or result in excessive enclosure, including due to removals elsewhere and close to Wood Court. So overall, and individually or cumulatively, the height, scale, mass or proximity of these parts of the proposal to Wood Court would not be unduly overbearing nor overly restrict outlook or natural light from side or rear facing room windows.
20. Albeit in the elevation facing Wood Court, the cycle store and a residents bin store would be within the confines of the main building and set back from the common boundary behind the drive. With only side louvres the bin store doors would not open towards Wood Court and likely be used intermittently for short periods, including on collection day. The cycle store doors would open towards Wood Court but give quick and easy access to a small number of cycles. A condition could ensure both sets of doors used soft close mechanisms to prevent being slammed shut and a suitable surfacing material could help attenuate noise from wheeling bins. This limited level and nature of normal domestic activity would not be unduly intrusive to occupants of Wood Court with rooms and windows facing this part of the site, which are mostly kitchens or bathrooms.
21. Even with similar measures and soft-closing lids, bins for the commercial use are shown stored next to front and side facing ground floor windows of the corner flats in Wood Court, so be intrusive. However, a condition could ensure they were stored further away, such as next to the parking spaces for the commercial use in front of this part of the building.
22. I therefore find that the proposal would comply with Guildford Borough Local Plan January 2003 saved Policy G1(3) and with Guildford Borough Local Plan: Development Management Policies March 2023 Policy D5. These policies include that neighbourly development should protect the amenities of occupants of existing residential properties by avoiding unacceptable impact on their living environment.

Other Matters

Bin collection

23. I appreciate the proximity of the busy cross road junction, though this section and side of Worplesdon Road has two lanes to accommodate traffic flow. The

Council has not explained where a refuse vehicle could stop in this road relative to the site, or did stop when it was last in use, nor why this would not still be appropriate even if less than ideal. Advice by the Council's Recycling and Waste Projects Officer for a previous similar proposal at the site is, on the face of it, contradictory so not clear⁵. It is also inconsistent with advice by the Council's Technical Support and Improvement Officer in the current appeal application.

24. Given the innate circumstances of the site relative to the roadside in this case and that the proposal is largely for a re-use of an existing building, the Council has not resolved its position on bins. Nor, in this context, has it advanced any other practical solution for bin stores or practical arrangement for collection. As it is the relevant authority in this regard it does not assist me (or the appellant) that the Council simply maintains its guidance would be infringed.
25. In these circumstances I am not able to make a finding on this matter. But on the evidence before me there is no apparent reason why the main parties could not resolve satisfactory arrangements for bin collection.

Thames Basin Heaths Special protection Area (the SPA)

26. The appeal site is within a zone of influence of the SPA, a European site designated due to habitat and species important for nature conservation. Alone or in-combination with other development the proposal would have a likely significant effect on the integrity of the SPA due to disturbance by the additional occupants of the houses and flats visiting it for recreation. The appellant agreed to mitigate and make a requisite financial contribution towards implementing suitable alternative natural greenspace or strategic access management measures in accordance with the Council's development plan and adopted strategy⁶; either by a previous or a new planning obligation. However, no planning obligation has been submitted in this appeal.

Other interested party comments

27. Some upper floor casement and rooflight windows would face houses set lower down in Ardmore Avenue to the rear of the site. However, the substantial separation distance would ensure no harmful overlooking of rooms or rear gardens and because of intervening boundary trees. In relation to Francis Court, views would be oblique and sufficiently far away from the nearest flats and external amenity space so as not to cause harmful overlooking.
28. A first floor kitchen window in Flat 1 at No.6 Worplesdon Road is about 1m away from the other side elevation of the rear wing, though at a much higher level so includes a perpendicular view over and across the flat roof. The first floor rear extension would be much closer to this window than in relation to Wood Court. However, the increase in vertical side elevation to eaves level would be approximately at cill level and the low sloping roof would veer away. There would be a noticeable change but for planning purposes nobody has a right to a private view and a kitchen is not a main habitable room, mostly in transient use. Views from eye level of a standing person would also be upwards and over the roof or at an angle across it to the east largely as now. Roofscape seen in this way is not unusual in built-up areas. Consequently, the rear extension would not result in enclosure that was overbearing or overly restrict outlook or natural light at Flat 1.

⁵ 20/P/01276

⁶ Thames Basin Heaths SPA Avoidance Strategy 2017

29. The effect of development on property value is not a planning consideration. Damage to property during construction works, including from any alleged subsidence, or in the future, would be a private matter between the respective parties. Some disruption to living conditions is an inevitable consequence of carrying out development but would not be permanent. A condition could control hours of working to avoid undue noise and disturbance.

Planning Balance

30. The appellant considers that the Council 'cannot currently achieve their housing targets' but has not explained this assertion and what it precisely means or provided objective evidence in this regard. The Council considers it can demonstrate a five year supply of deliverable housing sites, at 6.46 years, including based on its most recent published document⁷. It also meets the Government's 2022 Housing Delivery Test. On this basis by virtue of National Planning Policy Framework (Framework) footnote 8, paragraph 11 d) and the presumption in favour of sustainable development is not engaged in this case.
31. The site is, though, located where residential development is acceptable in principle and 6 flats and 3 houses would contribute to meeting the Council's housing requirement. It would also make use of a windfall site and building that has been dormant since 2018 and sustain employment during construction. Subject to conditions the proposal would incorporate high quality external materials, suitable energy and water efficiency measures, cycle storage to encourage this mode of travel and achieve biodiversity enhancement and net gains on the site. This would be aligned with objectives of the Framework to significantly boost the supply of homes, meet peoples living needs including small families, make efficient use of previously developed brownfield land for well-designed housing in urban areas, support the local economy, help meet the challenge of climate change and conserve the natural environment. These are each important benefits in favour of the proposal.
32. However, it has not been demonstrated that there would be sufficient space to park and turn vehicles, that electric vehicle charging points would be provided or that there would be no harm to trees. This would undermine relevant objectives of the Council's development plan. These are broadly consistent with aims of the Framework to ensure safe and suitable access for all users and to avoid unacceptable impact on highway safety, to transit to renewable energy so reduce greenhouse gas emissions and to retain trees wherever possible because they make an important contribution to the quality of urban environments. In my view, the support in the Framework to delivering housing is not at the expense of ensuring that the residential development proposed in this case does not cause harm in these respects, each of which have significant weight against the proposal.
33. The benefits of granting planning permission do not, therefore, outweigh the harm. As the competent authority in this appeal it would ordinarily be necessary for me to undertake Appropriate Assessment with regard to the SPA⁸. However, since I intend to dismiss the appeal, even if the proposal did not adversely affect the integrity of the SPA there is no need for me to consider it any further because it would not affect my decision or alter the outcome of the appeal.

⁷ Appendix 8, five year housing land supply, updated January 2023

⁸ Conservation of Habitats and Species Regulations 2017 (as amended)

Conclusion

34. The proposal conflicts with the development plan overall and with relevant provisions of the Framework. There are no other material considerations to indicate that the decision should be taken other than in accordance with the development plan⁹. Consequently, for the reasons given above the proposal is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

⁹ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12