

Appeal Decision

Site visit made on 27 March 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal Ref: APP/Y3615/W/23/3328577

Land adjacent to 12 Oak Hill, Wood Street Village, Guildford GU3 3ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Wayne McShane against the decision of Guildford Borough Council.
 - The application Ref is 21/P/02036.
 - The development proposed is the erection of a 4 bedroom detached house on land adjacent to 12 Oakhill.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address stated on the Council's decision notice and the appellant's appeal form in the banner heading above as it more accurately represents the site than that given on the planning application form.
3. The application is in outline with access, appearance, layout and scale to be considered as a detailed matter, with landscaping reserved for future consideration.
4. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). I am satisfied that no party would be prejudiced by making reference to the Framework in this decision.

Main Issues

5. The main issue in this case is the effect of the proposal on the amenity value of existing trees subject to a Tree Preservation Order (TPO).

Reasons

6. The appeal site consists of a plot of land sitting between a row of detached houses on Oak Hill, and a commercial/industrial site. The wider area is verdant and heavily covered in trees with sporadic development, giving the area a wooded and spacious character.
7. The site is densely covered by trees and contributes to the verdant surroundings. The site also provides a visual and physical gap between the row of houses and commercial site and provides some screening to the

commercial site. This gap between built form contributes positively to the spacious surroundings. Whilst containing some unremarkable saplings and gorse, as a group, the amenity value of these established trees therefore contribute positively to character of the area, as recognised by their inclusion in a group TPO (No 5 of 2022).

8. The submitted Tree Survey¹ sets out that a total of 9 trees would require removal to facilitate the development, with the possible addition of other trees below 75mm in stem diameter. 7 of the trees to be removed would be category B trees, albeit some are categorised as B3. Protection measures such as the avoidance of conventional excavation footings, would be required to avoid the loss of a further category B tree (T7). The survey sets out that some are in poor condition, for example due to storm damage, ash dieback infection or structural weakening of the main stems, however some (T4) would be removed to, for example, provide the access.
9. The removal of these trees would result in the existing densely wooded character of the site being lost. Whilst some trees and gorse would remain (notwithstanding any future pressure to further remove trees due to their long-term dominating presence and significant shading), including at the frontage, the visual and physical gap between residential development and the commercial site would be diminished. The large proposed dwelling would be clearly visible from the highway giving an impression of a lengthy unbroken built form on this side of the road. The existing spacious wooded character of the surroundings would also therefore be compromised.
10. As such, I conclude that the proposed development would harm the amenity value of existing trees subject to a Tree Preservation Order. Accordingly, the proposal conflicts with Policy D1 of the Guildford Borough Council Local Plan: Strategy and Sites 2015 – 2034 (2019) (SS), which requires development to achieve high quality design that responds to local landscape character. The evidence before me indicates that there also conflict with the tree protection requirements of British Standard BS 5837:2012.

Other Matters

11. The appeal site is within 400m – 5km of the Thames Basin Heaths SPA, which supports breeding populations of three rare species of bird: Nightjar, Woodlark and Dartford Warbler. The conservation objectives for the SPA are, in summary, to ensure that the integrity of the site is maintained or restored in order to protect the habitat and the birds that depend on it. The birds which are features of the SPA are vulnerable to disturbance from recreational activities, which would likely increase through new housing development.
12. In accordance with Policy NE4 of the of the Guildford Borough Local Plan (2003), SS Policy P5 and Policy NRM6 of the South East Plan (2009), appropriate mitigation would need to be secured for such development. No such mitigation is before me, however, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.

¹ By SMW Tree Consultancy Ltd, 20 June 2022

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13. The appeal site is not subject to any policy designations relating to ecology, and I have not been made aware of any nearby sites designated for their ecological qualities. However, a third party makes reference to the presence of wildlife such as bats and badgers on the appeal site. Circular 06/2005² states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It goes on to say that it *"... is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.
14. The submitted tree statement sets out that some of the trees are not likely to be bat habitats, however this does not include all the trees on site. In the absence of any survey information, it is not possible to establish if, or to what extent, protected species would be affected by the proposal. Therefore, it is appropriate to take a precautionary approach. Having regard to the Circular, it would not be appropriate to require surveys or further investigation by planning condition were I minded to allow the appeal.
15. However, again, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision. Similarly, whilst not specifically referenced in the reasons for refusal, the Officer Report raises issue with the effect of the retained trees on the garden area. Once more, as I am dismissing the appeal for other reasons, I am not pursuing this matter further, because it could not lead me to a different decision.
16. The proposal would result in an additional unit of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, in a location with good access to services and facilities, as supported by Framework. The proposal would result in a short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new dwelling. However, given the quantum of development in this case, I give this matter limited weight in favour of the scheme.
17. The lack of harm identified in relation to matters such as design is to be expected in any development and does not weigh in favour of the proposal.
18. The appellant sets out various issues experienced through the determination of the application, such as a lack of communication with the planning department and the time it took to determine the application, in addition to the timing of the TPO and the requirement for an Arboricultural report. These issues are matters between the appellant and the Council and are not relevant to my determination of this appeal.
19. Similarly, the lack of other TPO's within the immediate vicinity does not diminish my findings above on the contribution of the appeal site to the surroundings.

² 1 Circular 06/2005: Biodiversity and geological conservation - statutory obligations and their impact within the planning system

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Conclusion

20. The proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

B Phillips

INSPECTOR