



Appeal Decision

Site visit made on 4 April 2024

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 24 July 2024

Appeal Ref: APP/D3640/W/23/3321881

47 Guildford Road, Bagshot, Surrey GU19 5JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr A Nouri of ACM-47 Guildford Road Limited c/o Portman Morris against the decision of Surrey Heath Borough Council.
 - The application Ref is 23/0256/FFU.
 - The development proposed is to demolish existing public house and premises and erect two detached and one pair of semi-detached 4-bed houses with parking, landscaping, bin and cycle stores etc.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing public house and premises and erect two detached and one pair of semi-detached 4-bed houses with parking, landscaping, bin and cycle stores etc at 47 Guildford Road, Bagshot, Surrey GU19 5JW in accordance with the terms of the application, Ref 23/0256/FFU, subject to the conditions in the attached schedule.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. The main parties have had the opportunity to comment on the relevance of the revised Framework within any final comments. My attention has been drawn to the increased emphasis on the provision of housing and support for the use of mansard roofs. I have determined the appeal in light of the comments received and the updated Framework.
3. The appellant submitted an Ecological Appraisal and a further bat report, both prepared by Hankinson Duckett Associates and dated December 2022, in support of the application and in turn, this appeal. The Council has confirmed that these reports are sufficient, subject to appropriate conditions, to address its concerns in respect of protected species and habitats, set out in the fourth reason for refusal.
4. During the course of the appeal, the appellant submitted an executed Unilateral Undertaking pursuant to s106 of the Town and Country Planning Act 1990, dated 18 January 2024 (the UU). The UU contains a planning obligation that would secure a financial contribution of £3,993.72 towards Strategic Access Management and Monitoring (SAMM) measures, in relation to the Thames Basin Heaths Special Protection Area (SPA). The Council has confirmed that the UU is sufficient to address the fifth reason for refusal. Notwithstanding the

Council's position in respect of SAMM, it is necessary to consider the effect on the Thames Basin Heath's SPA as a main issue.

5. A previous scheme proposing demolition of the existing public house and the construction of five houses was dismissed at appeal in October 2023¹ (the 2023 appeal). The Inspector decided the 2023 appeal considered the matter of character and appearance, including the loss of a tree to be acceptable. While the Council's appeal statement indicates it does not wish to make further comments in respect of these issues relating to the appeal before me, its decision notice raises character and appearance and the impact on trees as reasons for refusal. I have therefore considered these as main issues and addressed them in my reasoning below.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area, including on existing trees;
- whether the proposed parking layout would provide an acceptable standard of accommodation for future occupiers, with particular regard to outlook, privacy and light;
- whether the proposal would make appropriate provision for pedestrian and sustainable transport users safety; and
- the effect of the proposed development on the Thames Basin Heaths SPA.

Reasons

Character and appearance

7. The appeal site comprises the former White Hart Public House, its associated garden and car park, situated on the north side of Guildford Road within the settlement area of Bagshot. The area is primarily residential in character, with some commercial uses and a church nearby. Residential development primarily comprises two storey dwellings as well as a relatively recent flat block on the adjoining site. Large areas of hardstanding providing car parking, dominate the frontages of nearby sites, which follow a relatively consistent building line. The appeal site has hard surfaced car parking either side while the frontage is set behind a roped and Astroturf frontage.
8. The proposal involves the demolition of the existing public house and the site's redevelopment to provide four detached dwellings, with parking to the front and gardens to the rear. The Inspector deciding the 2023 appeal scheme found that the introduction of five dwellings in that case would have been of a satisfactory scale, design and layout representative of the existing character and appearance of the area. In comparison with that scheme, the proposed quantum of development, the overall bulk, and the amount of car parking have reduced.
9. Under the current scheme, there would sufficient the space between the proposed dwellings to ensure it would not appear cramped. The overall scale and bulk of would also be consistent with prevailing development pattern

¹ APP/D3540/W/22/3313570

locally, including at Coal House and Windlesham Court. The proposed dwellings would follow the relatively consistent building line along Guildford Road and provide an active frontage onto it. Notwithstanding there would be a relatively large expanse of hard surfacing to the front, this would be in keeping with the existing situation and open frontages elsewhere in the vicinity. Moreover, suitably worded conditions could secure, amongst other things, a landscaping scheme that could ensure the frontage is softened. I therefore am satisfied that the proposed development would not be overly dominated by car parking and hardstanding.

10. There are nine trees and shrubs along the site's boundaries, of varying quality. Views to these from Guildford Road contribute something to the verdant suburban character of the wider area. As in the 2023 appeal, the proposed development involves the removal of one of trees on the appeal site to facilitate space for parking. The appellant's Arboricultural Impact Assessment (March 2023) identifies this to be a 'Category C' tree, which is of low quality. The proposed removal of the tree would not diminish the green backdrop that would still be visible through gaps between the proposed houses. Moreover, conditions would ensure suitable protection and supplementary planting on the site so that the overall green and spacious qualities of the area would be maintained.
11. Given the above, I am satisfied that proposed development would be in keeping with the locality and would not harm the character and appearance of the area. I therefore find no conflict with Policies CP2 and DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 (CS), together with the relevant aims and objectives of the RDG. These, taken together, require development to be of a high-quality design which respects and enhances the local character and setting. The proposal would also accord with the requirements of the Framework. This seeks, amongst other considerations, to achieve well-designed and beautiful places through developments that are visually attractive and sympathetic to local character.

Standard of accommodation

12. The proposed four dwellings would be sited in a linear pattern, set back from the road by a parking and turning area. Two of the proposed units (No 2 and No 4) would have car parking spaces directly in front that would be separated by a small gap from their respective windows, which would serve a kitchen/utility area.
13. The proposed position of the parking spaces would be slightly off set such to enable views from the ground floor window, even when occupied by a vehicle. As such, even when the parking spaces are occupied by vehicles, future occupiers would be able to see around and over the vehicles and, at oblique angles, to the open frontage. Whilst the size of the gap for No 2 would be particularly modest, vehicles would likely not reach much above the lower portion of the window. Furthermore, No 2 and 4 positions the main ground floor living space to the rear, facing on to private rear gardens and a backdrop of vegetation. The key habitable rooms would therefore benefit from a good level of daylight and outlook. Therefore, I do not consider the future occupiers of No 2 or No 4 would experience poor outlook or a sense of enclosure.
14. The parking spaces in front of No 2 and No 4 would potentially enable looking into the front windows as people from the vehicles go into properties. The

frontage of the development would be a communal area where some intervisibility between the houses and comings and goings would be expected. However, the spaces are marked for specific properties and the single visitor parking space would be located towards the road. Taking into consideration the mitigation of soft landscaping that could be secured by condition, I do not consider the proposed parking layout would lead to a harmful loss of privacy for the future occupiers of the proposed development.

15. For the above reasons, overall, I am satisfied that the proposed parking layout would provide a good standard of accommodation for future occupiers, with particular regard to outlook, privacy and light. There would be no conflict with Policy DM9 of the CS which requires new development to be of a high-quality design that provides sufficient private and public amenity space. The proposal would also be in accordance with the aims and objectives of the Surrey Heath Residential Design Guide Supplementary Planning Document (RDG) 2017, as well as the requirements of the Framework, insofar as these seek to ensure developments provide a high standard of amenity for existing and future users.

Pedestrian and sustainable transport

16. The Council's sixth reason for refusal relates to the absence of a legal agreement to secure a financial contribution towards improvements for pedestrian and sustainable transport users' safety. The County Highway Authority and the Council have requested a contribution of £10,000 towards the enhancement of two existing zebra crossings on either side of the appeal site. These improvements would seek to reduce vehicle speeds and in turn improve pedestrian safety and supporting use of sustainable modes of travel. The appellant disputes the need for the contribution, indicating that the proposal would represent a reduction in traffic generation.
17. Notwithstanding the reduction in traffic generation, there would be an increase in persons residing on site, and this is likely to include families. On the basis of the evidence before me, however, I have no reason to find that proposal would adversely impact on the safe and efficient flow of traffic, nor that the existing footways and cycleways would be sufficient to provide safe and sustainable travel choices.
18. There is no substantive evidence as to how the sum of £10,000 has been arrived at or regarding the need for such safety improvements. I therefore cannot be satisfied that such a contribution would be fairly and reasonably related in scale and kind to the proposed development nor necessary to make it acceptable in respect of highway safety. Such a contribution would therefore fail to meet the tests set out in the Framework and Regulations 122 of the Community Infrastructure Regulations 2010 (the 122 Regs). It therefore follows that the proposal would make appropriate provision for pedestrian and sustainable transport users safety in accordance with Policy DM11 of the CS.

Thames Basin Heaths SPA Appropriate Assessment

19. The appeal site lies within 5km, and therefore within the Zone of Influence of the Thames Basin Heaths SPA, a European designated site. This site has been designated due to its important ground-nesting bird species including the Dartford Warbler, nightjar and woodlark. All three bird species nest on the ground or at low level and so are easily disturbed or harmed by human activity. In particular, this includes recreational activity such as dog walking. Predation

- by domestic cats is also a risk factor, as is the potential for fly tipping and arson on the heathland habitat.
20. A significant individual or in-combination adverse effect on this European site would be likely to occur due to disturbance from increased population arising from residential development in an area where these inhabitants would be in such proximity to the SPA that they would be likely to visit it for recreational purposes. The appeal scheme would result in a net gain of four residential units, and in combination with other development permitted in the area, there would be a likely significant adverse effect on the integrity of the SPA.
 21. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me as the competent authority for the purposes of this appeal.
 22. The Council's Thames Basin Heaths Avoidance Strategy (the avoidance strategy) sets out that a combination of avoidance measures to protect the integrity of the SPA from the impacts of new development are necessary. Those measures will be based on a combination of Strategic Access Management and Monitoring (SAMM) and the provision of Suitable Accessible Natural Greenspace (SANG). In this case, SANG would be provided at Windlemere. The appeal site falls within the catchment area for the Windlemere SANG where the Council have confirmed there is capacity to absorb the effects. The latter is delivered through the Community Infrastructure Levy mechanism whilst the former is secured by a legal agreement.
 23. The evidence presented indicates that the development would be liable to the Community Infrastructure Levy (CIL) and that the requirement for mitigation in respect of the SANG would be payable through that mechanism. The UU submitted by the appellant contains a planning obligation that would secure a financial contribution of £3,993.72 towards Strategic Access Management and Monitoring (SAMM) measures.
 24. Natural England has confirmed that it is content that the proposed measures, are sufficient to avoid an adverse impact to the integrity of the site in relation to its specified qualifying features.
 25. As the competent authority, in light of the above mitigation, I am satisfied that the proposal would not harm the integrity of the Thames Basin Heaths SPA. In this regard the proposal would comply with Policy CP14B of the Core Strategy. This states, amongst other things, that all new residential development within 5km of the Thames Basin Heaths SPA is considered to give rise to the possibility of likely significant effects, and also requires such proposals provide appropriate measures to avoid adverse effects upon the SPA in accordance with the Avoidance Strategy. The proposal would also be consistent with Policy NRM6 of the South East Plan.
 26. The planning obligations within the UU are necessary to make the proposal acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. As such, they meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010, as amended.

Other Matters

27. My attention has been drawn to the proposed clearance and removal of vegetation from the appeal site and the potential impact on ecology and neighbouring occupiers' privacy. However, the Council indicated that the information and recommendations within the submitted ecological appraisal and bat reports were satisfactory in respect of protected species and habitats. The Council also did not raise concerns in respect of neighbours' privacy. Subject to the imposition of suitably worded conditions to secure details of landscape and construction management, including replacement planting, soft landscaping and protection of existing trees, and provision for habitat boxes and boundary treatments, I am satisfied that the proposed development would not result in harm to ecology or the living conditions of neighbouring occupiers.
28. Concerns regarding the proposed site density, size of dwellings, and parking spaces have also been raised. However, while a higher density may be possible, higher density schemes have either been refused or dismissed. The Council have raised no issue with the mix of dwellings, which would contribute to the supply and choice of houses in the Borough. The proposal would provide two parking spaces for each plus one visitor parking space. The total of nine parking spaces provided would accord with the relevant parking guidelines and there is no substantive evidence to justify a higher provision. In any event, I have assessed the proposed development on its own merits, policy context and the site-specific circumstances.

Conditions

29. The Council has suggested several conditions in the event of my allowing the appeal, I have considered these in accordance with the Planning Practice Guidance and the Framework. I have edited some of the conditions for clarity and enforceability.
30. Conditions specifying the timeframe for the development and plan numbers are necessary in the interests of certainty. The Council has suggested a time limit of one year for implementing the scheme, however, this could unreasonably impact on the deliverability of the development and so I have imposed a standard three-year condition. The plans conditions suggested by the Council included a requirement for alterations to be approved by the Council, which is not necessary or reasonable to include.
31. Conditions to secure details of external materials and hard and soft landscaping works, including protection of retained trees, together with details of lighting, refuse and cycle storage are necessary in the interests of the character and appearance of the area.
32. A Construction Transport and Environmental Management Plan is necessary in the interests of highway safety as well as to minimise any adverse environmental impacts on neighbouring occupiers as well as biodiversity. Given the scale of the proposed, and the nature of the surrounding road network, I do not consider it would be reasonable or necessary to require vehicle route information or condition surveys of the highway. As conditions should be kept to a minimum, I have merged the minimum necessary requirements of the Construction Environmental Management Plan condition suggested by the Council into a single Construction Transport Management Plan condition.

- 33. Conditions that require details of a surface water drainage scheme to manage the risks associated with on-site contamination are necessary to avoid risk from surface water flooding and to ensure the development is safe for future occupiers.
- 34. Conditions to secure the provision of parking spaces within the site are required to ensure appropriate parking provision for future occupiers and such to avoid an inconvenience to other road users, whilst details of electric vehicle charging points are required in the interests of the character and appearance of the area. A condition to require adherence to the recommendations and enhancements set out in the submitted bat report is required to avoid harm to protected species.
- 35. Conditions to secure the provision of parking spaces within the site are necessary to in the interests of living conditions of future occupiers and highway safety. A condition to require details of electric vehicle charging points is necessary required in the interests of sustainable transport. A condition to require adherence to the recommendations and enhancements set out in the submitted bat report is necessary to avoid harm to protected species.

Conclusion

- 36. The proposed development accords with the development plan and material considerations do not indicate that a decision should be made other than in accordance with it.
- 37. For the reasons given above, the appeal should be allowed.

R. Lawrence

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos PM/30, PM/31, PM/32, and PM/33.
- 3) No development above ground level shall take place until samples and details of the external facing materials to be used have been submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried out in accordance with the approved details and samples.
- 4) No soft or hard landscaping works shall take place until a full details of both have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out as approved and implemented prior to the first occupation of the development. The scheme shall include:
 - hard surfacing materials
 - height, design and type of boundary treatments
 - access features
 - existing trees, and hedges to be retained including measures for their protection
 - habitat boxes
 - details of proposed planting to be carried out including a planting specification and including mitigation for the tree identified to be removed
 - details of the measures to be taken to protect existing features during the construction of the development.

Any retained or proposed landscaping which, which, within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

All approved hard landscaping shall also be carried out in accordance with the approved details prior to the first occupation of the development or the completion of the development, whichever is the sooner, and thereafter retained.

- 5) No development shall commence, including any works of demolition, until a Construction Transport and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority, to include details of:
 - (a) parking for vehicles of site personnel, operatives, and visitors, to be restricted to within the curtilage of the site
 - (b) loading and unloading of plant and materials used in the construction of the development, to be restricted to within the curtilage of the site
 - (c) location for storage of plant and materials used in the construction of the development, to be restricted to within the curtilage of the site
 - (d) programme of works (including measures for traffic management)

- (e) provision of any boundary hoarding behind any visibility zones
- (f) details of HGV deliveries and hours of operation such to avoid harm to biodiversity features
- (g) measures to prevent the deposit of materials on the highway
- (h) noise impact mitigation
- (i) details of proposed means of dust suppression and emission control

The approved plan shall be adhered to throughout the construction of the development.

- 6) No development shall commence until a Landscape and Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority, to include details of:
- a) description and evaluation of features to be managed, including a map
 - b) practical measures to avoid and reduce ecological impacts during construction
 - c) ecological trends and constraints on site that might influence management
 - d) aims and objectives of management
 - e) appropriate management options for achieving aims and objectives
 - f) prescriptions for management actions, together with a plan of management compartments
 - g) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period
 - h) details of the body or organisation responsible for implementation of the plan
 - i) ongoing monitoring and remedial measures
 - j) monitoring strategy, including details of how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.
 - k) sensitive lighting plan

The developed shall be undertaken and maintained in accordance with the approved plan.

- 7) Prior to the first occupation of the development hereby approved, full details of:
- a) any external lighting other than in private gardens
 - b) refuse and recycling storage
 - c) cycle storage
- shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the details shall be implemented in accordance with the approved details and thereafter retained.

- 8) No development, excluding any site investigations, clearance and demolition, shall commence until a detailed surface water drainage scheme for the site has been submitted to and approved by the Local Planning Authority. The submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development

The approved SUDS shall be fully implemented prior to the first occupation of the development and thereafter maintained in accordance with the approved details for the lifetime of the development.

- 9) No development shall commence until a scheme to deal with the risks posed by contamination on site, has been submitted to and approved in writing by the Local Planning Authority. The above scheme shall include:
- (a) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted to address the potential significant pollution linkages described in Desk Study
 - (b) the site has been remediated in accordance with the approved measures and timescales set out in (a).
 - (c) Prior to the first occupation of the development, a 'a verification report to demonstrate the agreed remediation has been carried out in accordance with part (a), and that any unforeseen contamination discovered during the project has been handled in accordance with the 'Watching Brief and Discovery Strategy' described in Phase 1 Desk Study, has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out and completed wholly in accordance with the approved details.

- 10) 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 and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- 11) The development hereby approved shall not be occupied unless and until each of the proposed dwellings is provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

- 12) The development hereby approved shall be undertaken in accordance with all the recommendations and enhancements set out in document Bat Report dated December 2022. The recommendations and any necessary mitigation and compensation measures shall be provided, carried out in full and thereafter retained in perpetuity.