



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: 26 July 2024

Appeal Ref: APP/Y3615/W/23/3328722

121 Aldershot Road, Guildford GU2 8BE

- 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 Mei Lun Wong against the decision of Guildford Borough Council.
 - The application Ref is 21/P/02473.
 - The development proposed is 4 additional units in underutilised parts of the site, with associated uses and the removal of side windows to 121 Aldershot Road.
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Decision

1. The appeal is allowed and planning permission is granted for 4 additional units in underutilised parts of the site, with associated uses and the removal of side windows to 121 Aldershot road at 121 Aldershot Road, Guildford GU2 8BE in accordance with the terms of the application, Ref 21/P/02473, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. 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.
3. Since the determination of the application, the Guildford Borough Local Plan Development Management Policies (LPDMP) has been adopted in March 2023 and the 2003 Guildford Local Plan has been superseded. The Council sets out that the LPDM polices referred to in the refusal reasons are therefore no longer determinative. In any case, the policies in question, which relate to protection of living conditions, are repeated by the requirements of other policies, and as such, I have not taken the LPDM policies into consideration.
4. Similarly, the Special Protection Area (SPA) mitigation requirements of LDMP Policy NE4 is also repeated by other policies, and as such, in the absence of any confirmation that it remains relevant I have also not considered this policy as determinative.
5. The Council refer to the existing dwellings at Nos 115, 117, 119, 121 Aldershot Road, however I observed that these properties are named 115a, 117a, 119a and 121a. For the purposes of accuracy, I will therefore refer to these dwellings as 115a, 117a, 119a and 121a.
6. Amended plans have been submitted with the appeal, illustrating the means of access to proposed unit 1. I have considered the revised plans under the principles established by the Courts. The amended drawings do not in my view,

materially amend the proposal, and therefore, in accepting them I would not prejudice the interests of interested parties. Consequently, I have determined the appeal on the basis of the amended drawings before me.

7. The appellants have submitted a Unilateral Undertaking (UU) which seeks to provide mitigation in relation to the Thames Basin Heaths SPA. This is considered later in this decision.

Main Issues

8. The main issues in this case are:

- the effect of the proposal on the living conditions of the occupants of Nos 115a, 117a, 119a, 121a Aldershot Road, having particular regard to whether the development would be overbearing, and effect on privacy and light;
- whether the proposal would provide suitable living conditions of the occupiers of Unit 1 with regards to privacy; and
- the effect of the development on the Thames Basin Heaths SPA.

Reasons

Living Conditions - existing residents

9. The appeal site consists of part of a mixed use terrace, with four units, Nos 115a-121a Aldershot Road, set above a commercial ground floor. All four properties are accessed by a staircase at the rear leading to a first floor access way that runs past all 4 properties. This access way is not private amenity space in any sense, it is not divided in any way, is accessible to each resident/visitor and is mutually overlooked by existing fenestration.
10. The proposed plans indicate some subdivision of the access way, setting aside some space for each existing unit, however again, these would be overlooked by users of the access way and existing fenestration. The proposed balconies to units 1 and 4 would not materially affect any existing privacy therefore, nor harmfully effect the proposed subdivided spaces in terms of overlooking. The obscure glazing of the proposed high level windows to units 2 and 3 facing these spaces, would prevent an undue feeling of direct or an intensification of, overlooking. As such, no harm to existing privacy would be caused through overlooking of this space by the proposed development.
11. The outlook from the rear facing windows of the existing 4 units is mostly of the roof of the commercial building at the rear, in addition to various plant equipment. From the access walkway there is a sense of being surrounded by development and a feeling of being sat within a densely developed urban environment.
12. The addition of a single storey building at the rear of the site providing units 2 and 3, above the single storey rear projection, would bring built form closer to these rear facing windows. However, the extension is of limited height, and would remain lower than the existing commercial building to the rear and views of the sky above would remain, preventing an overt feeling of enclosure. The addition of three units accessed through the rear would represent a minor intensification of the use of this area and would not harm the amenities of the existing occupiers. As such, the development would not be overbearing nor unneighbourly in this respect.

13. The proposed side extension would extend past the existing rear elevation of the terrace. However, this projection is limited, and would not break the 45-degree line when drawn from the nearest habitable room window (first floor bedroom) of the nearest neighbour, No 121a. Given this limited depth of projection it would not be overbearing on the outlook from the external area or from the rear fenestration, as it would not have a significant impact on the views to the rear, which would remain of some built form with sky above.
14. Moreover, the proposed terrace space of No 121a faces south and would receive sufficient sunlight, as well as daylight. As such, the extension would not have an unacceptable overbearing nor overshadowing impact upon the occupants of No 121a. Given the greater distance, the extension would also therefore not harm the living conditions of the occupants of the other units, set behind No 121a.
15. I conclude that the proposed development would not harm the living conditions of the occupants of Nos 115a, 117a, 119a, 121a Aldershot Road, having particular regard to privacy and light and would not be overbearing. There is therefore no conflict with the requirements Policy D1 of the Guildford Borough Local Plan: Strategy and Sites 2015 - 2034 (2019) (SS) and D5 of the Guildford Borough Council: Development Management Policies (2022) (DMP) which collectively seek high quality design which protects the amenities enjoyed by occupants of buildings. There is also no conflict with the general protection of living conditions goal of the Framework, nor the requirement of the National Design Guide to consider the relationship between buildings.

Living Conditions - future residents

16. Unit 4 sits directly above unit 1, and its balcony area is smaller. As such, should users of the balcony look directly down they would be able to see part of the balcony below. However, it is unlikely that the balcony would be used in this way, and given the dense urban location, expectations of privacy for external areas are also limited, for example, passing views of the balcony area of Unit 1 would also be possible from the access staircase. In this context, some limited overlooking opportunity would not harm the living conditions of the users of the balcony areas to any significant degree.
17. A condition requiring privacy screens would not therefore be necessary to protect the privacy of any future occupier or residents of neighbouring units.
18. As such, I conclude that the proposal would provide suitable living conditions of the occupiers of Unit 1 with regards to privacy. There is therefore no conflict with DMP Policy D5 which requires development to avoid resulting in unacceptable living conditions for new residential properties.

Special Protection Area

19. 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. An

appropriate assessment is therefore required under the Habitat Regulations 2017 (as amended).

20. In accordance with SS Policies P5 and ID4 and saved Policy NRM6 of the South East Plan (2009) (SEP), appropriate mitigation would need to be secured for such development. The Thames Basin Heaths SPA Avoidance Strategy Supplementary Planning Document (2017) (SPA Avoidance Strategy), sets out measures to help mitigate against the potential effects from new housing. This mitigation is achieved through financial contributions towards the provision of Suitable Alternative Natural Green Space (SANGS) within the Council's borough, which is aimed at providing an alternative recreation location to the SPA. Further mitigation is also secured through financial contributions towards Strategic Access Management and Monitoring (SAMM), which helps monitor and manage the impact of people using the SPA.
21. The appellant has provided a completed S106 agreement in order to secure the required financial contributions towards SAMM (£2,440.12) and SANGs (£18,318.80) to mitigate the development's effect on the Thames Basin Heaths SPA. Natural England have set out that, subject to this mitigation being secured, they have no objection. I am therefore satisfied that the mitigation measures would be effective.
22. The proposed mitigation would meet the requirements of the SPA Avoidance Strategy. As the competent authority, I am therefore satisfied that with the proposed mitigation, the development would not have an adverse effect on the integrity of the SPA. The development would therefore comply with LP Policy NE4, SS Policies P5 and ID4, SEP Policy NRM6 and the Conservation of Habitats and Species Regulations 2017 (as amended).

Other Matters

23. Given that the living rooms of Units 2 and 3 are also served by two other windows on different elevations providing light and outlook, the obscure glazing of the windows facing the terrace area would not result in a compromised living accommodation. The development would meet the requirements of DMP Policy D5 in this regard.

Conditions

24. A list of suggested conditions has been provided that the Council and/or the appellants consider to be appropriate. I have considered these in light of the PPG and the tests set out in the Framework. For clarity and to ensure compliance with the tests, I have amended some of the suggested wording.
25. In addition to the standard time limit, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
26. A condition requiring the details of all external materials to be submitted to and agreed in writing is necessary in order to secure efficient use of materials and reduction in carbon emissions, in accordance with the sustainable design and construction requirements of SS Policy D2. Similarly, a condition requiring details of the proposed photovoltaic panels to be submitted and secured is necessary in the interest of sustainable design.

27. In accordance with SS Policy D2 1d, the development is required to achieve enhanced water efficiency standards. A condition limiting the water use per occupant per day is therefore necessary and appropriate.
28. A condition requiring the bike storage to be provided as detailed on the submitted plans is necessary, to ensure the occupants of the units have these facilities ready prior to occupation. A condition securing the high level windows of units 2 and 3 as obscure glazed is necessary, in order to prevent an undue feeling of overlooking, given the proximity, to the entrances of the existing units.
29. Given the surrounding commercial units, a condition is necessary to secure the mitigation measures outlined in the submitted noise¹ and odour reports, such as double glazing and acoustic trickle vents and alternations made to extraction equipment. This is in order to provide future occupants of new units acceptable living conditions.

Conclusion

30. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

B Phillips

INSPECTOR

¹ Both by Syntegra Consulting (sept 2022)

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 766-01-00, 766-04-10, 766-02-12, 766-02-10, 766-03-10, 766-03-11A, 766-03-12, 766-05-10B, 766-05-11.
- 3) Prior to the commencement of any development above floor level works, a written schedule with details of the source/manufacturer, colour and finish of all external facing and roof materials shall be submitted to and approved in writing by the local planning authority. This must include the details of embodied carbon/energy (environmental credentials) of all external materials. The development shall be carried out using only those materials detailed.
- 4) No development above ground level shall commence until details of the siting of the photovoltaics have been submitted to and approved in writing by the local planning authority. The photovoltaics shall deliver at least the energy efficiency performance detailed in the SAP reports provided with the application. The photovoltaics shall thereafter be installed and retained in accordance with the approved details and retained thereafter.
- 5) The development hereby approved shall not be first occupied until facilities for the secure, covered parking of bicycles within the development site, have been provided in accordance with the approved plans and thereafter maintained.
- 6) The development hereby permitted must comply with regulation 36 paragraph 2(b) of the Building Regulations 2010 (as amended) to achieve a water efficiency of 110 litres per occupant per day (described in part G2 of the Approved Documents 2015). Before occupation, a copy of the wholesome water consumption calculation notice (described at regulation 37 (1) of the Building Regulations 2010 (as amended)) shall be provided to the planning department to demonstrate that this condition has been met.
- 7) Prior to the occupation of Units 02 and 03 the northern windows serving these units facing No's 115a –121a Aldershot Road shall be fitted with obscure glazing to Pilkington Glass Level four or equivalent and shall be retained in perpetuity.
- 8) The development must be carried out in full compliance with the submitted Acoustic and Odour assessments, which include details of mitigation measures prepared by Syntegra, dated September 2022. The mitigation measures shall be maintained in accordance with the submitted details and be operated and maintained thereafter.

End of Schedule