



Appeal Decision

Site visit made on 10 April 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2025

Appeal Ref: APP/Y3615/W/24/3358021

19 East Lane, West Horsley, Surrey KT24 6HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sevendale Horsley Limited against Guildford Borough Council.
 - The application Ref is 24/P/01197.
 - The development proposed is the erection of three terraced two storey houses with roof space accommodation following demolition of existing house, creation of new access, with associated parking and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of three terraced two storey houses with roof space accommodation following demolition of existing house, creation of new access, with associated parking and landscaping. at 19 East Lane, West Horsley, Surrey KT24 6HJ in accordance with the terms of the application, Ref 24/P/01197, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council has indicated that had it been able to issue a decision, it would have refused planning permission on the grounds that the proposal would have had an unacceptable adverse impact upon both the character and appearance of the surrounding area and the amenities of the occupiers of no 5 Greta Close.
3. The Council also raised a concern about the potential effect of the development on the Thames Basin Heaths Special Protection Area, in response to which the appellant submitted a planning obligation under s106 of the Town and Country Planning Act 1990, replacing an earlier planning obligation which the Council considered to be defective. I have determined the appeal on the basis of the corrected planning obligation.
4. The description of development was amended by the Council, when the application was validated, to that shown above. The appellant has confirmed their agreement to the amended description, and I have therefore determined the appeal on this basis.

Main Issues

5. In light of the above, the main issues in this appeal are:

- the effect of the proposed development on the character and appearance of the surrounding area; and
- the effect of the proposed development on the living conditions of the occupiers of no 5 Greta Close with particular reference to privacy.

Reasons

Character and appearance

6. The appeal site is located within the built up area of West Horsley, at the junction of East Lane and Greta Bank. East Lane is characterised by detached houses and bungalows situated on well sized plots, with Greta Bank containing a similar mix of properties on generally smaller plots. Opposite the site is open countryside which forms part of the Green Belt.
7. Given that the immediate area contains a mix of both houses and bungalows, the proposal for houses is an appropriate response to the area's overall character; and by following the existing building line of East Lane and Greta Bank, the houses would be appropriately set back from both roads. Although the plot widths of the three terraced houses would be narrower than other plots in East Lane and Greta Bank, the combined footprint of the houses would be comparable with existing detached dwellings in East Lane, whilst much of the existing landscaping on the site frontages would be retained, albeit with a new access from Greta Bank, such that the proposal would not be a discordant element in the street scene.
8. The Council has objected to the massing of the houses, citing in particular that the accommodation within the roof space would require a crown roof and dormer windows. However, the crown roof would have a similar appearance to the hipped roofs which are a common feature in the locality, and although the houses would be higher than nearby two storey houses, the difference in height would not be so significant as to be harmful to the area. I note that nos 23 and 27 East Lane both have accommodation in the roof space, and although no 23 has its dormer at the rear, no 27 has two front-facing dormers. Taking all of these factors into account, I am satisfied that the proposed houses would not be out of character with the surrounding area.
9. The proposal therefore accords with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites (SS), Policies D4 and D8 of the Guildford Borough Local Plan: Development Management Policies (DMP) and Policy WH2 of the West Horsley Neighbourhood Plan (WHNP). Together these policies require high quality design which responds to local character and distinctiveness via, amongst other things, appropriate layout, form and scale, particularly in relation to infilling proposals in villages.

Living conditions

10. The proposal would introduce upper floor windows and rooflights facing towards the property at the rear, no 5 Greta Bank, which is oriented at right angles to the appeal site. The windows/rooflights would serve bedrooms and dressing rooms

along with an en-suite. The Council considers that the proposal would result in unacceptable actual and perceived overlooking of the rear garden and conservatory of no 5 Greta Bank.

11. The rear windows of the proposed houses would be separated from the boundary with no 5 Greta Bank by the length of the proposed rear gardens of the properties, which the Council confirms is more than 10 metres, ensuring that the bedrooms would not look directly onto the rear garden of no 5 Greta Bank. It is not uncommon in built up areas for upper floor windows to look across neighbouring rear gardens, a case in point being no 7 Greta Bank, which is positioned at right angles to no 5 Greta Bank and looks out onto its rear garden. Moreover, as bedrooms are typically used less frequently than living rooms and kitchens, there is a reduced perception of overlooking. Taking these factors into account, I do not consider that the proposed development would overlook the rear garden of no 5 Greta Bank to a harmful extent.
12. The Council has raised a concern about the relationship of the proposed houses with the conservatory of no 5 Greta Bank, which is located next to the boundary with the appeal site. The side windows of the conservatory are largely screened by an existing hedge on the common boundary, and whilst the nature of the boundary treatment could change over time, it is reasonable to suppose that both sets of occupiers would want a hedge or fence of similar height separating their properties, thus protecting the conservatory from direct overlooking. As the main outlook from the conservatory is to the rear, at right angles to the proposed houses, the resultant oblique views from the upper floors of the proposed houses would not cause unacceptable degree of overlooking.
13. I therefore conclude that the proposal accords with Policies D5 and D8 of the DMP, which require development proposals to avoid unacceptable impacts on the living environment of existing residential properties, including in respect of privacy and overlooking.

Other Matters

14. The appeal site lies within the 5km buffer zone of the Thames Basin Heaths Special Protection Area, where a net increase in residential units can potentially have an adverse impact resulting from an increase in dog walking, general recreational use, damage to the habitat, disturbance to protected species and road traffic emissions. In accordance with Policy P6 of the DMP and Policy P5 of the SS, appellants are required to undertake appropriate mitigation to avoid such impacts occurring.
15. The appellant has submitted a planning obligation in the form of a deed of unilateral undertaking under s106 of the Town and Country Planning Act 1990, in respect of a financial contribution towards the Council's Suitable Alternative Natural Greenspace provision, in accordance with the Council's Avoidance Strategy. Having reviewed the obligation, I am satisfied that it meets the three tests of Regulation 122 of the Community Infrastructure Regulations 2010 and paragraph 58 of the National Planning Policy Framework, namely that it is necessary to make the development acceptable in planning terms, it is directly related to the development, and it is fairly and reasonably related in scale and kind to the development.

16. The Council has confirmed that it considers the completed planning obligation to be acceptable and to overcome the Council's concerns. I therefore consider that the relevant policies of the development plan, as noted above, have been complied with, and that there will be no likely significant effect on the Thames Basin Heaths Special Protection Area.
17. Interested parties have raised a number of matters in addition to those highlighted by the Council. West Horsley Parish Council has objected to the proposed housing mix, citing Policy WH4 of the WHNP, which requires proposals to have full regard to the need to deliver one, two and three bedroom market homes. I am nonetheless satisfied that the proposal, which is for terraced houses including a fourth bedroom/study, has had due regard to the policy and will be suitable for occupation by younger families.
18. Loss of light to, and overlooking of, the adjacent property no 17 East Lane have been raised, but the Council has confirmed that the side-facing windows of this property serve dual aspect rooms which would not suffer a significant loss of light, and moreover I consider that any overlooking would be at such an oblique angle as not to harm privacy.
19. Noise and disturbance and light pollution have been raised, but any increase in activity as a result of the proposal would be marginal in the context of the activity already associated with the site and in the wider area. There would be a small loss of hedgerow and limited encroachment into the root protection areas of trees, but neither to the extent of causing a harmful impact.
20. Likewise, any increase in traffic would be marginal, and I am satisfied that sufficient parking and turning for cars has been provided. Surface water can be controlled by condition in order to minimise the risk of flooding.
21. West Horsley Parish Council has stated that the appellant's record of its prior engagement with the Parish misrepresents the discussions which took place, but these have not played a part in my determination of the appeal, which I have determined on its merits and the evidence before me.

Conditions

22. The Council has recommended that 20 planning conditions be imposed in the event that the appeal is allowed. The appellant has confirmed their agreement to the suggested conditions, with the exception of two matters, which I deal with below. In assessing the need for the conditions, I have had regard to the policy requirements contained in the development plan.
23. Standard conditions relating to the three year time limit (No 1) and the list of approved plans (No 2) are required.
24. In the interests of sustainability, conditions requiring a site waste management plan (No 3), photovoltaic panels (No 9), air source heat pumps (No 10), water efficiency (No 14), refuse and recycling (No 15) and fabric efficiency (No 19) are required.
25. The development is required to undertake tree protection measures during construction (No 4), and to make appropriate provision for biodiversity (No 5) and ecological enhancements (No 7).

26. To ensure that the development enhances its surroundings, a landscaping condition (No 6) and materials condition (No 8) should be applied. The appellant has queried why both conditions refer to embodied carbon/energy, but as one relates to surfacing materials and the other to external materials, it is logical to duplicate this requirement.
27. In the interests of highway safety, visibility splays (No 11), parking and turning areas (No 12) and cycle parking (No 13) should be conditioned.
28. To protect the privacy of neighbours, conditions requiring the obscure-glazing of the rear en-suite window (No 16), removing permitted development rights for additional rear-facing windows (No 17) and removing permitted development rights for extensions (No 18) are necessary. I agree with the appellant that there is no need to take away the ability to erect outbuildings, as they do not have privacy implications and the Council has confirmed that the proposed rear gardens are adequate. I have therefore amended the wording of the condition accordingly.
29. To minimise the impact on protected species, a condition controlling external lighting is required (No 20).

Conclusion

30. For the reasons given above the appeal should be allowed.

J Heppell

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 the following approved plans:
 - ELW/P24/06 – Proposed Ground and First Floor Plans
 - ELW/P24/07 – Proposed Second Floor and Roof Plans
 - ELW/P24/10 – Proposed South and East Elevations
 - ELW/P24/11 – Proposed North and West Elevations
 - ELW/P24/04 Rev A – Proposed Block Plan
 - ELW/P24/05 Rev A – Proposed Site Layout
 - ELW/P24/20 – Proposed Site Layout Showing Vehicle Visibility Splays
- 3) No development hereby permitted (including demolition, groundworks and construction of the vehicular accesses) shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - a) any waste generated by construction, demolition and excavation activities is limited to the minimum quantity necessary;
 - b) opportunities for re-use and recycling of construction, demolition and excavation waste on the application site are maximised; and
 - c) sufficient on-site facilities to manage waste (storage, reuse and recycling) arising during the operation of the development of an appropriate type and scale will be provided and maintained for the duration of the development.

The Site Waste Management Plan will subsequently be kept up-to-date throughout the development process in accordance with established methodology. The Site Waste Management Plan measures shall be implemented and maintained for the course of the development works.
- 4) No development hereby permitted (including groundworks and construction of the vehicular access) shall commence until an Arboricultural Method Statement and Tree Protection Plan, in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction, has been submitted to, and approved in writing by, the Local Planning Authority. The development (including groundworks and construction of the vehicular access) shall be carried out in accordance with the approved details.
- 5) No development shall commence until the following details have been submitted for the written approval of the Local Planning Authority:
 - a) evidence that the proposed biodiversity net gain (BNG) provision for the development meets the requirements for a 20% BNG gain;
 - b) evidence that any required off site biodiversity net gain (BNG) has been secured for a period of 30 years (if proposed). Details shall include the location of the site where off-site BNG has been secured, evidence that it is operating as a lawful BNG bank and how it is being managed and monitored for the 30 year period; and
 - c) details of any required BNG provision which is being provided on site (if proposed). This shall include the exact details of the scheme (including

planting and any other BNG measure being introduced) and details of how the scheme will be managed and maintained for a period of 30 years.

Once agreed in writing by the Local Planning Authority the scheme shall be implemented in full before the first occupation of the dwellings and shall be managed and maintained in accordance with the details for the full 30 year period. The development shall only be carried out in accordance with the agreed details.

- 6) Prior to the commencement of any development above slab level works, full details of both hard and soft landscape proposals, including a schedule of landscape maintenance for a minimum period of five years, shall be submitted to and approved in writing by the local planning authority. The hard and soft landscaping scheme shall include:

a) details of native and drought resistant planting;

b) details of the hard surfacing to include details to show the texture and colour of the materials to be used and information about their sourcing/manufacture; and

c) details of all boundary treatments

including embodied carbon/ energy (environmental credentials) of all external materials and a commitment to using materials rated at least A in the BRE Guide.

The approved landscape scheme (with the exception of planting, seeding and turfing) shall be implemented prior in accordance with the approved details to the occupation of the development hereby approved and retained.

- 7) Prior to the commencement of development above slab level, an Ecological Enhancement Plan scheme to enhance the nature conservation interest of the site shall be submitted to and agreed in writing by the local planning authority following Section 4 of the Preliminary Ecological Appraisal by Ecology Partnership dated July 2024. The scheme shall include but not be limited to the following:

a) Description and evaluation of features to be provided;

b) Location Plan of all ecological enhancement features being provided;

c) Ecological trends and constraints of the site that might influence management;

d) Prescriptions for management actions; and

e) Ongoing monitoring and remedial measures

It shall be implemented in accordance with the approved details and shall thereafter be maintained.

- 8) Prior to the commencement of any development above slab level works, a written schedule with details of the source/ manufacturer, colour and finish, or samples on request 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 and a commitment to using materials rated at least A in the BRE Guide. The development shall be carried out in accordance with the agreed details.

- 9) Prior to the commencement of any development above slab level works, details of the solar photovoltaic installation for the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall set out for each unit:
- a) the total solar photovoltaic capacity (kilowatts peak);
 - b) number of panels;
 - c) orientation of panels; and
 - d) demonstration that the capacity has been reasonably maximised.
- The approved solar photovoltaic installation shall be implemented prior to first occupation of each dwelling and maintained as operational thereafter.
- 10) Prior to the installation of each Air Source Heat Pump, details shall be submitted to and approved in writing by the Local Planning Authority. Details should include:
- a) The findings of a noise survey (undertaken in accordance with BS 4142 or such other standard acceptable to the Local Planning Authority) to determine noise levels in the vicinity of the proposed development;
 - b) Written details and calculations showing the likely impact of noise from the development;
 - c) If needed a scheme of works or such other steps as may be necessary to minimise the effects of noise from the development; and
 - d) The development shall not commence until written approval of a scheme under c) above has been given by the Local Planning Authority. All works forming part of the scheme shall be completed before the Air Source Heat Pump is operational.
- The approved details shall thereafter be implemented and maintained in accordance with the approved details.
- 11) The development hereby approved shall not be first occupied until the proposed vehicular accesses to East Lane and Greta Bank hereby approved have been constructed and provided with visibility zones in accordance with the approved plans, Drawing No. ELW/P24/20, and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high.
- 12) The development hereby approved shall not be first occupied until space has been laid out within the site in accordance with the approved plans, Drawing No. Page 5 of 6 ELW/P24/05 Rev A, 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.
- 13) The development hereby approved shall not be first occupied until facilities for high quality, secure, lit and covered parking of bicycles and the provision of a charging point with timer for e-bikes by said facilities have been provided within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.

- 14) Prior to first occupation of each dwelling, a water efficiency statement shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of water management measures that achieve a maximum water usage of 110 litres per person per day and waste and prioritises demand reduction measures over supply measures for each dwelling to 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). The dwellings shall be constructed in accordance with the approved details and thereafter maintained.
- 15) Prior to first occupation of any dwelling, details of:
 - a) the design and position of storage facilities for bins and recycling; and
 - b) the dimensions to accommodate the bins/caddies and surfacing materials for the bin collection pointshall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be thereafter maintained for the lifetime of the development.
- 16) Plot 3 hereby approved shall not be first occupied until the first floor en-suite bathroom window in the north facing rear elevation of the development hereby approved is installed with obscure glazing to a minimum Pilkington Glass Level 4 and permanently fixed shut, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Thereafter, the window shall be retained in line with these specifications for the lifetime of the development.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no windows, dormer windows, rooflights, or other form of openings other than those shown on the approved plans, shall be inserted in the first floor or roof slope of the north-west facing rear elevation of the development hereby permitted.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no enlargements within Schedule 2 Part 1 Class A shall be carried out on the Plot 1 or Plot 2 dwellinghouses hereby permitted.
- 19) The development hereby permitted shall achieve or improve upon the values for building fabric energy efficiency and airtightness for each dwelling set out in the "Sustainability & Energy Statement" dated 25 September 2024.
- 20) Any external lighting shall comply with the recommendations of the Bat Conservation Trusts' document entitled 'Bats and Lighting in the UK – Bats and The Built Environment Series' and shall thereafter be maintained in perpetuity.

End of schedule