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## Appeal Decision

Site visit made on 30 June 2025

by **C Coles MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 AUGUST 2025

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**Appeal Ref: APP/M3645/W/25/3363529**

**3 Stuart Road, Warlingham, Surrey CR6 9JH**

- 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 Silverleaf Group against the decision of Tandridge District Council.
  - The application Ref is 2023/375.
  - The development proposed is outline application with landscaping matters reserved for the demolition of existing dwelling and erection of two blocks containing a total of 14 apartments with access from Edgehill.
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### Decision

1. The appeal is allowed and planning permission is granted for outline application with landscaping matters reserved for the demolition of existing dwelling and erection of two blocks containing a total of 14 apartments with access from Edgehill at 3 Stuart Road, Warlingham, Surrey CR6 9JH in accordance with the terms of the application Ref 2023/375 subject to the conditions in the attached schedule.

### Applications for costs

2. An application for costs was made by Silverleaf Group against Tandridge District Council. This application is the subject of a separate decision.

### Preliminary Matters

3. The appeal is in outline form with matters relating to access, appearance, layout and scale for consideration. Landscaping would be a reserved matter.

### Main Issues

4. The main issues are:
  - the effect of the proposed development on the character and appearance of the area; and
  - whether or not the development would provide suitable external amenity space for the future occupiers of the apartments.

## Reasons

### *Character and appearance of the area*

5. The appeal site comprises a detached two-storey dwelling with ancillary garaging located on a large, steeply sloping plot. The site lies within an area characterised by spacious, leafy suburban residential development, with the majority of properties being partially obscured from more distant views by soft landscaping and the topography of the area.
6. The site is located on the north side of Stuart Road, close to the junction with Succombs Hill with access from Stuart Road. There is no standard architectural style on Stuart Road, although the scale and bulk of development is relatively uniform comprising large, detached dwellings set within spacious sites located close to the road with deep rear gardens and at the present time, Stuart Road does not currently comprise flattened development. The dwellings along Stuart Road provide a transition between the fields to the south and the large, flattened development at Dorin Court to the north.
7. The scheme seeks approval for two buildings. Block 1 would lie to the north of the site, would have a total of five levels including the basement and would be excavated into the existing land levels. Block 2 would lie to the south of the site in the general position of the existing dwelling and would be three storey height. Between the two blocks would be a level area containing the parking and some of the landscaping/amenity space. Amenity spaces would comprise a mix of private terraces/balconies, communal amenity areas and terraces within the landscaped boundaries of the proposal.
8. Planning permission was granted on the adjacent site (Edgehill) under reference 2022/225 for the demolition of the existing dwelling and the erection of two blocks containing a total of 21 apartments. This development has not yet commenced but remains extant and with no pre-commencement conditions left to discharge. The implementation of this approved scheme, namely its access, is paramount to the acceptability of this proposal on highway safety grounds. The scheme at Edgehill is a very important material planning consideration in the determination of this appeal as the sites are owned by the same developer and it is likely both schemes would come forward in tandem.
9. Whilst each scheme must be considered on its own merits, the Inspectors decision in respect of the adjacent site (Edgehill) with regard to character and appearance for appeal (APP/M3645/W/20/3261214) (3261214) following refusal of 2019/1455 is helpful to assist with the assessment of the likely effect of the present scheme on the area. In determining the effect of the proposal on the character and appearance of the area, that Inspector noted the test is not one of screening the proposal from public view, but to ensure that any development scheme approved would have a scale and design that would be comfortably assimilated within the residential/wooded hillside character to the north of Stuart Road and the railway line. Key points of the assessment in terms of character considered the design with two main blocks and the stepped nature of the buildings breaking up its appearance, therefore not appearing as overdevelopment and mitigating the impact of the development from longer views. I consider this an appropriate approach to consider with the present proposal.

10. The general design approach and density of the proposal is similar to that at Edgehill and conforms with the density range set out within Policy CSP19 of the Tandridge District Core Strategy (2008) (CS) which highlights a density range of 30 to 55 dwellings per hectare within the built-up areas as acceptable, unless the design solution for such a density would conflict with the local character and distinctiveness of an area where a lower density is more appropriate. The Council consider the density to be greater than that calculated by the appellant and greater than the Edgehill scheme, however, the proposed density would be within the density range identified within Policy CSP19.
11. The Council make the case that the proposal would be out of character with Stuart Road and the street scene as the appeal frontage is onto Stuart Road. However, this was also the case for the Edgehill development which currently has its principal access and frontage onto Stuart Road. The site sits within the same wooded hillside with the buildings built into the slope of the land. Block 2 would have a similar ridge height as the adjoining property (No 5 Stuart Road) and the approved frontage development at Edgehill. Given these surroundings I am satisfied the scheme would reflect the general scale of the adjoining Edgehill development.
12. Whilst the Edgehill scheme is located on a corner, in my opinion this would give Edgehill a presence on two street scenes rather than just Stuart Road therefore it should respect a wider character area. The appeal site relates more fully to Stuart Road than the Edgehill site. However, the positioning of the proposed blocks on the site would assimilate with the existing character of development along Stuart Road. The Inspector commented in appeal 3261214 that the existing development along Stuart Road would not preclude a flats development of some scale on the Edgehill Site. I consider that the same conclusion can be reached with the present appeal scheme.
13. The appeal site is narrower than the Edgehill development site, however, there would be sufficient space within the site to soften the appearance of the proposal through appropriate landscaping, the retention of existing landscaping and the replacement of existing hardstanding and the double garage to the front of the site with softer landscaping, details of which would be considered at reserved matters stage.
14. In conclusion, the proposal would reflect the character of the area given the extant permission on the adjacent site (Edgehill), flattened development to the north and the overall layout of the scheme in two blocks which reflect the positioning of neighbouring residential development along Stuart Road. The scheme would be an appropriate density of development in accordance with Policy CSP19 of the CS. The proposal would also comply with Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (LP) and Policy CSP18 of the CS insofar as they require new development to be of high quality design which should integrate effectively with its surroundings and reflect, respect and contribute to the character, appearance and amenity of the area including having regard to the topography of the site.

#### *Amenity space*

15. The proposal includes a number of areas of external amenity space across the site. These would comprise communal areas at the front and rear of the site which

would work with the site contours, a flat communal terrace which would be shared with the Edgehill development and a natural play area within the middle of the site. Some of the properties would benefit from private balconies.

16. The communal space would be generally spread over the site ensuring all parts of the proposal would have access to outside space within a reasonable distance of the accommodation. The communal space would be positioned within view of the accommodation to provide natural surveillance.
17. The development plan does not include adopted minimum standards for amenity space therefore the acceptability of proposals should be considered on a case by case basis.
18. Concern has been raised over the loss of a large number of trees on the site prior to the submission of the application and the implications of their replacement for the amenity space of the occupiers of the proposal. The evidence indicates that none of the trees were protected and that they were able to be felled without a licence. This outline proposal is accompanied by an indicative landscape master plan as an example of what could be provided and although it may not be achievable to replace the level of tree cover that has been lost, it would be possible to provide landscape enhancements to the site. I am satisfied that this approach to landscaping would not adversely affect the proposed amenity spaces.
19. Overall, the proposal would provide accessible communal amenity space and private amenity space that would be of sufficient quantity and quality to serve the future residents.
20. I conclude that both the quantity and the quality of the communal amenity space for the entire proposal would be suitable and, in the absence of specific standards the proposal would be in accordance with requirement 8 of Policy DP7 of the LP and paragraph 135(f) of the National Planning Policy Framework (the Framework).

### **Other Matters**

21. I have taken into account all the objections to the scheme, both at the application and appeal stages, including from Warlingham Parish Council and Whyteleafe Village Council. These concerns include in relation to highway safety, flood risk, ecology and biodiversity and the amenity of neighbouring properties with specific regard to overlooking, visual intrusion, loss of light, noise and light pollution.
22. I note the concerns raised regarding increased traffic, the impact of the proposal on highway safety and the access within the site for refuse, recycling and delivery vehicles. Highway safety was considered at length by the Council in the committee report and concluded the proposal has been designed with full regard to parking and highways impact and no objections were raised in these regards either from the Council or the County Highways Authority. This matter does not form a reason for refusal and having looked at the evidence, and visited the site, I have found no reason to take a different view.
23. A combined flood risk assessment and drainage strategy was submitted with the application which satisfied the requirements of the Surrey County Council Flood and Water Services Team (LLFA) and the Environment Agency. Again, I have no technical and detailed evidence before me that leads me to take a different view.

24. The application was submitted with a Preliminary Ecological Appraisal providing details of surveys undertaken and assessment of mitigation in relation to protected species. The report notes the potential of the site to contain bats and reptiles and further surveys are suggested prior to commencement which, I am satisfied, can be secured by condition. Biodiversity Net Gain (BNG), in terms of a legal requirement on the site is not mandatory due to the application being submitted prior to publication of the Environment Act.
25. Concerns relating to overdevelopment of the site and the overall size and scale of the proposal and these issues have been examined under the assessment of the character of the area.
26. In terms of other issues, the grant of a planning permission would not override or affect a covenant which is a separate and private legal matter. I can only consider the appeal in respect of its planning merits and any decision in this case is not materially affected by any private rights of respective parties.
27. With respect to neighbouring property amenity, the properties affected would be Edgehill which is in the ownership of the same developer of the appeal site and has extant permission to be redeveloped and No 5 Stuart Road. The Council have considered the impact on the neighbouring properties in its Committee Report report and based on the evidence before me and my site visit I have no reason to conclude the proposal would have an unacceptable impact on the residential amenities and privacy of the existing neighbouring dwellings, now or in the future.

### **Conditions**

28. The Council has provided a list of conditions which I have considered and found reasonable and necessary and adjusted where I considered appropriate.
29. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of visual amenity and proper planning.
30. Other conditions are needed to make the development acceptable. Highway safety conditions are required to ensure that a suitable access to Succombs Hill is provided, to provide appropriate vehicle and cycle parking and to secure a Construction Transport Management Plan to ensure appropriate and safe parking by contractors. A condition requiring fast charge sockets for each dwelling will promote sustainable transport, whilst surface water drainage provision conditions will safeguard against flood risk on and off site.
31. A condition stipulating renewable energy provision will reduce carbon emissions in the proposed dwellings. Conditions for sound insulation in the buildings will safeguard residents' living conditions as regards to noise respectively and a condition requiring privacy mitigation measures will protect existing and future occupier amenity.
32. To protect ecology and reptiles on the site during construction and after, conditions are required to provide additional surveys to identify the ecology on the site and appropriate mitigation measures including the provision of a Construction Environmental Management Plan.
33. Contamination and piling conditions are required in the event contamination is discovered on-site and to reduce risk to controlled waters. The appellant objected

to the requirement for the condition relating to piling, however, the Environment Agency requested the condition to protect the ground water quality in the event piling mobilises contamination. I agree with the need for this condition.

34. Landscaping on the site will be the subject of a reserved matters application to be submitted separately and therefore such conditions do not need to form part of this approval.

### **Planning Balance and Conclusion**

35. I have found that the proposal would be acceptable in relation to the character and appearance of the area and the external amenity space available for the occupiers of the development. These matters would be policy compliant. I have found no material consideration that would weigh against the scheme to such an extent, either in isolation or collectively, that would indicate that permission should be withheld.
36. Consequently, I conclude that the scheme would comply with the development plan when considered as a whole and material considerations do not indicate a decision should be made other than in accordance with the development plan. It follows that the appeal should be allowed.

*C Coles*

INSPECTOR

## Schedule of Conditions

1. The development hereby permitted shall start before the expiration of 3 years from the date of this permission or 2 years from the date of approval of 'the last of the reserved matters' to be approved, whichever is the later.
2. Prior to commencement, approval of the landscaping (hereinafter called the 'reserved matters') shall be obtained from the local planning authority (LPA). Detailed plans and particulars of the 'reserved matters' shall be submitted in writing not later than 3 years from the date of this permission and shall be carried out as approved.
3. The development hereby permitted shall be carried out in accordance with drawings numbered: PL-01 Rev A, PL-02 Rev C, PL-33 Rev B, PL-36 Rev A, PL-37 Rev A, PL-40 Rev B received 24th March 2023, PL-23 Rev D, PL-30 Rev D, PL-32 Rev C received 28th September 2023, PL-28 Rev D, PL-29 Rev E, PL-31 Rev E, PL-41 Rev D, PL-42 Rev C, PL- 43 Rev C received 30th January 2024.
4. The materials to be used on the external faces of the proposed development shall be in accordance with the details shown on the submitted application particulars.
5. Prior to commencement a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the LPA. The development shall be carried out in accordance with the approved details. The required drainage details shall include:
  - a) The results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels.
  - b) Evidence that the proposed final solution will effectively manage the 1 in 30 (+35% allowance for climate change) & 1 in 100 (+40% allowance for climate change) storm events and 10% allowance for urban creep, during all stages of the development. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate equivalent to the pre-development Greenfield run-off including multifunctional sustainable drainage systems.
  - c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.). Confirmation is required of a 1m unsaturated zone from the base of any proposed soakaway to the seasonal high groundwater level and confirmation of half-drain times.
  - d) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected from increased flood risk.

- e) Details of drainage management responsibilities and maintenance regimes for the drainage system.
  - f) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.
6. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the LPA. This must demonstrate that the surface water drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls), and confirm any defects have been rectified.
  7. Prior to commencement, badger and bat presence surveys should be undertaken along with any other surveys as listed within the Preliminary Ecological Appraisal (August 2022) and Reptile Survey Report (March 2023). The results of the surveys shall be submitted to the LPA for approval with any mitigation measures as necessary and shall be implemented prior to commencement of the development. Thereafter the development shall be carried out wholly in accordance with the recommendation and mitigation measures within the Preliminary Ecological Appraisal (August 2022) and Reptile Survey Report (March 2023) as prepared by David Archer Associates and any further mitigation as approved by this condition.
  8. Prior to commencement a Sensitive Lighting Management Plan shall be submitted to and approved in writing by the LPA. The development shall be undertaken in strict accordance with the approved details unless otherwise agreed in writing with the LPA.
  9. Prior to commencement a Construction Environmental Management Plan (CEMP) including a reptile precautionary method of working of development shall be submitted to and approved in writing by the LPA. The CEMP should include, but not limited to:
    - a) Map showing the location of all the ecological features
    - b) Risk assessment of the potentially damaging construction activities
    - c) Practical measures to avoid and reduce impacts during construction
    - d) Location and timing of works to avoid harm to biodiversity features
    - e) Responsible persons and lines of communication
    - f) Use of protective fences, exclusion barrier and warning signs.
  10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the LPA. The remediation strategy shall be implemented as approved.

11. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the LPA, which may be given for those parts of the site where it has been demonstrated by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
12. No part of the development shall be commenced unless and until the proposed vehicular access onto Succomb's Hill has been completed in accordance with the details submitted and approved under planning permission ref 2022/225.
13. The development shall not take place other than in accordance with the submitted Construction Transport Management Plan (R02-siwar5-CTMP 2023-09-04), and implemented in accordance with points specifically addressed below:
  - (a) parking for vehicles of site personnel, operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials
  - (d) programme of works (including measures for traffic management)
  - (e) measures to prevent the deposit of materials on the highway
  - (f) on-site turning for construction vehicles has been submitted to and approved in writing by the LPA.
  - (g) vehicular routes, booking systems and an assessment for the scope of consolidating loads to reduce generated road trips
  - (h) Site compound arrangements including arrival of vehicles, parking, loading, storage and waste arrangements; methods for protection of adjacent highway infrastructure;
  - (i) an assessment of all matters as are likely to cause nuisance to adjoining occupiers (including but not limited to; noise, dust, smoke, road cleaning & wheel washing facilities, odour control) accompanied by mitigation measures addressing all matters relevant to this particular site
  - (j) construction hours.
14. Prior to the first occupation, the site must be laid out in accordance with Drawing No. PL-02 Rev C for vehicles to be parked and 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.
15. Prior to occupation each of the proposed dwellings shall be 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 to and approved in writing by the LPA. Thereafter the approved scheme shall be retained and maintained.
16. Prior to the first occupation, facilities for the secure, covered parking of bicycles and the provision of a charging point for e-bikes with a timer shall have been provided within the development site in accordance with a scheme to be submitted to and approved in writing by the LPA. Thereafter the said approved facilities shall be provided, retained and maintained.

17. Prior to the first occupation, the renewable energy provisions as specified in the application details shall be installed and these systems shall thereafter be retained in perpetuity in accordance with the approved details.
18. Prior to the first occupation, the action plan measures outlined within the Residential Noise Assessment produced by Nova Acoustics dated 18th September 2023 shall be implemented to ensure the development would meet the standards in BS 8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings resources. Thereafter these measures shall be retained in perpetuity.
19. Prior to the first occupation of any unit within each block, or first use of relevant balconies, any privacy mitigation measures including obscure glazing, high level windows, and/or privacy screen as shown on the approved plans for that block shall be installed. Any obscure glazed window installed shall be non-opening except above 1.7m from Finished Floor Level of the room it relates to. All privacy mitigation measures for that block shall thereafter be retained in perpetuity.

End of Schedule