



Appeal Decision

Site visit made on 19 August 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 SEPTEMBER 2025

Appeal Ref: APP/Y3615/W/25/3366764

14 Blackwell Avenue and land to the rear of 10a-12 Blackwell Avenue, Guildford, GU2 8LU

- 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 Antony Tilney (Tilney Property Ltd) against the decision of Guildford Borough Council.
 - The application Ref is 24/P/01696.
 - The development proposed is described as 'erection of three 3-bedroom dwellinghouses, together with landscaping, following the demolition of the existing garage building'.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of three 3-bedroom dwellinghouses, together with landscaping, following the demolition of the existing garage building at 14 Blackwell Avenue and land to the rear of 10a-12 Blackwell Avenue, Guildford, GU2 8LU in accordance with the terms of the application, Ref 24/P/01696, and subject to the conditions in the attached schedule.

Preliminary Matters

2. When I visited the site I saw that some development, including the demolition of the existing garage building at 14 Blackwell Avenue, has already taken place. I have determined this appeal on that basis.
3. The fifth reason for refusal refers to the likely significant effect of the appeal scheme on the Thames Basin Heaths Special Protection Area (TBHSPA). To address this, the appellant sought the Council's views on a unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 to secure contributions towards Suitable Alternative Natural Green Space (SANGS) and Strategic Access Management and Monitoring (SAMM). In response to comments from the Council on the version of the UU dated 23 April 2025, the appellant amended the UU to reflect current SANGS and SAMM rates. The Council subsequently confirmed that the updated version of the UU dated 16 July 2025 was acceptable.
4. Given that the UU dated 23 April 2025 does not include SANGS and SAMM contributions that accord with the current tariffs, I do not consider it to be effective and therefore I have not taken it into account. Rather, this decision is based on the UU dated 16 July 2025.

Main Issues

5. The main issues are:

- the effect of the appeal scheme on the character and appearance of the area;
- the effect of the appeal scheme on the living conditions of the occupiers of nearby dwellings with particular regard to the outlook of 82 and 84 Applegarth Avenue and the privacy of 6 Hunts Close;
- whether the appeal scheme would provide acceptable living conditions for the future occupants of the proposed dwellinghouses with particular regard to the outdoor space for units 2 and 3;
- whether the appeal scheme would achieve adequate biodiversity net gain (BNG);
- whether the appeal scheme would have an impact on protected species or protected habitats (other than the Thames Basin Heaths Special Protection Area); and
- the effect of the proposal on the Thames Basin Heaths Special Protection Area, with particular regard to recreational disturbance.

Reasons

Character and Appearance

6. The appeal site comprises undeveloped land which is bordered by the back gardens of the dwellinghouses which surround it. Access to the site is via a road that has been created by sub-dividing the rear garden of 14 Blackwell Avenue and demolishing its garage.
7. The appeal site is surrounded by predominantly semi-detached dwellinghouses, most of which have off-street car parking areas. A number of these houses have been increased in size, including by way of two-storey side and / or rear extensions. In a number of instances additional dwellings have been created in gaps between buildings, an example of which is 10a Blackwell Avenue which adjoins 10 Blackwell Avenue and creates a terrace of three houses. There are other similar examples on Hunts Close to the north of the appeal site.
8. In its Statement of Case the Council refers to a previous approval (23/P/01771) for two dwellings on the appeal site, stating that the appeal scheme would be significantly larger, spanning the width of the site and having a total width of approximately 20 metres compared with 13.5 metres for the previously-approved scheme. It also notes that the appeal scheme would have a dual hipped roof whereas the extant permission had a hipped roof, and that, overall, there would be a significant increase in mass and bulk arising from the appeal scheme.
9. The plans before me show three dwellinghouses with a slightly staggered layout and with simple pitched roofs. To the front (south-east) of these would be a shared parking / turning area surfaced with 'Grasscrete' with incidental landscaping at its edges. Each of the houses would have a private garden. The scale of this terrace of three dwellings would be a similar size to other buildings nearby, including the terrace of dwellings to the immediate south of the appeal site (10a, 10 and 12

Blackwell Avenue) and other extended pairs of semi-detached dwellings. Whilst two of the three proposed dwellinghouses would have relatively small gardens when compared with some nearby dwellings, the local area has a wide variety of plot sizes and the undeveloped nature of surrounding gardens would help to avoid a feeling that the development is overly-cramped, that there is an excessive amount of hard surfacing or that it is out-of-keeping with the character of the area.

10. Accordingly I consider that the appeal scheme would not be harmful to the character and appearance of the area and that it would comply with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites (2019) (LPSS) and with Policy D8 of the Guildford Borough Local Plan Development Management Policies (2023) (DMP) which together seek high-quality design that is appropriate to the site's size, characteristics, its surroundings, and the character of an area. Whilst the Council also referred to LPSS Policy H1 in its reason for refusal relating to character and appearance, this is a general policy which relates to the provision of housing and I do not consider it to be of direct relevance to this matter.

Living Conditions of Occupiers of Nearby Dwellings

11. The garden of 84 Applegarth Avenue does not abut the appeal site; it abuts the rear garden of a property on Hunts Close. Given the length of the garden of 82 Applegarth Avenue, and that there are trees in that garden relatively close to the boundary with the appeal site, I do not consider that there would be a detrimental impact in terms of outlook.
12. Similarly, whilst the appeal site also adjoins the garden of 80 Applegarth Avenue, given the size of that garden and a large tree close to the boundary with the appeal site, I do not consider that the appeal scheme would be overbearing to users of the garden.
13. Given the orientation of the proposed dwellings there could be some potential for overlooking from the first floors towards 6 Hunts Close and its rear garden. However, given the established landscaping within the garden area of 6 Hunts Close I do not consider that there would be a harmful relationship between the appeal scheme and that property.
14. When I visited the site I saw that a new two-storey dwellinghouse was being constructed between numbers 6 and 7 Hunts Close. However, given its orientation I do not consider that the appeal scheme would have a harmful impact on the future occupiers of that dwellinghouse.
15. In the interests of privacy, I consider it necessary that the upper floor landing windows of units 1 and 3 be fitted with obscured glazing and be top-opening only.
16. Overall, I consider that the appeal scheme would comply with LPSS Policy D1 and DMP Policy D5 which together seek high-quality design and to avoid unacceptable impacts on the living environment of existing residential properties. Whilst the Council also referred to LPSS Policy H1 in its reason for refusal relating to living conditions, this is a general policy which relates to the provision of housing and I do not consider it to be of direct relevance to this matter.

Living Conditions of the Future Occupiers of the Proposed Dwellings

17. The Council has said that the gardens of two of the proposed dwellinghouses (units 2 and 3) would have a depth of between approximately 5.5 and 7 metres and widths of approximately 6 metres, that this would result in inadequate private outdoor amenity space for these and a poor environment for future occupants contrary to LPSS Policy D1 and DMP Policy D4, both of which seek development which responds to local character. Neither of those policies prescribe a minimum area for outdoor space, however.
18. Whilst some of the nearby dwellinghouses are located in spacious plots with good-sized gardens there is a wide range of garden sizes in the local area, including relatively small outdoor areas associated with the properties close to the junction of Blackwell Avenue and Applegarth Avenue. The supporting text to DMP Policy D5 says that private outdoor amenity space should be sufficient to accommodate a table and chairs, a garden shed / storage box if there is no additional storage provided as part of a garage, refuse and recycling bins, an area to dry washing, circulation space, areas for planting and, for family homes, an area for children to play in. In this case the appeal scheme includes bin stores elsewhere but I consider that the proposed gardens would be sufficiently-sized to address the other criteria and that they would not result in the creation of a poor environment for future occupants.

Biodiversity Net Gain

19. The appellant has demonstrated that the mandatory 10% BNG could be achieved by way of on-site and off-site measures which could be secured by way of planning condition. However, DMP Policy P7 seeks a BNG of at least 20%. The appellant has not demonstrated how a 20% BNG could be achieved with the submitted reports only referring to a 10% gain. Therefore, whilst the appeal scheme would comply with the requirements of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021), it conflicts with development plan policy in respect of BNG and would not achieve adequate BNG.

Ecology

20. The appellant's Preliminary Ecological Appraisal confirms that no Biodiversity Action Plan habitats were identified on the site, although the site has potential to support protected species, including reptiles and breeding birds. Further surveys were conducted, and no reptiles were observed during any of the seven survey visits. As reptiles are confirmed as likely absent, no further reptile mitigation is currently required. With regard to birds, the tree and shrub removal that is needed to facilitate development should take place outside of the bird-breeding season (October to February), but if they are removed during spring summer period then a breeding bird survey will need to be conducted. On-site mitigation is recommended in the Preliminary Ecological Appraisal, comprising native shrub planting, bird boxes, and composting bins. Accordingly, I consider that the appeal scheme complies with DMP Policy P6 which relates to the protection of important habitats and species.

Habitats

21. The appeal site lies within the 400m to 5km zone of the TBHSPA which is a network of heathland sites and which is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
22. In respect of the appeal scheme the Council has referred to the scope for increased dog walking, general recreational use, damage to the habitat, disturbance to the protected species, and road traffic emissions which would be contrary to the objectives of DMP Policy P6, LPSS Policy P5, saved Policy NRM6 of the South East Plan 2009 (SEP) and the Thames Basin Heaths Special Protection Area Avoidance Strategy Supplementary Planning Document (July 2017 and factually updated October 2021) (the TBH SPD) which require the SPA to be protected from new residential development that is likely to have adverse effects on the SPA's ecological integrity, and require avoidance and mitigation. I am required to carry out an appropriate assessment, therefore.
23. The TBHSPA provides a habitat for Woodlark, Nightjar and Dartford Warbler, all of which are internationally-important bird species. The aforementioned birds nest on or near the ground and, as a result, are very susceptible to predation, and to disturbance from informal recreational use, particularly walking and dog walking. I consider that there remains a probability or risk that the appeal scheme, in combination with other plans or projects, could have a likely significant effect on the SPA, as it would be likely to exacerbate existing recreational pressures.
24. Where it cannot be concluded that there would be no adverse effects on a site's integrity, it is necessary to consider potential mitigation. The TBH SPD sets out a framework for providing or contributing towards the delivery, maintenance, and management of SANGS and to SAMM and this is consistent with Natural England's standing advice.
25. The appellant has submitted a UU dated 16 July 2025 which secures such contributions. The UU would accord with DMP Policy P6, LPSS Policy P5, saved SEP Policy NRM6, and the TBH SPD which require the SPA to be protected from new residential development that is likely to have adverse effects on the SPA's ecological integrity. Therefore, the SANGS and SAMM contributions would meet the three tests set out at paragraph 58 of the National Planning Policy Framework (the Framework) and Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended). I can therefore take into account the UU dated 16 July 2025 as part of my decision. As a consequence, there would be no adverse effects on the integrity of the TBHSPA due to the measures being secured and required to be put in place through the UU.

Conditions

26. I have reviewed the conditions proposed by the Council in light of the tests in the Framework and advice in the Planning Practice Guidance. I also note that the appellant has agreed, and made no comments in relation to, those conditions.
27. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. A further condition requiring

samples of the materials to be approved is also necessary, in the interests of the character and appearance of the area.

28. In the interests of the living conditions of the occupiers of properties near the appeal site, a condition requiring approval of and adherence to a construction management plan is necessary. However, I have removed the requirement that was set out in the draft conditions for this to include details of waste handling as that would duplicate the standalone waste management condition suggested by the Council.
29. Conditions relating to the protection of trees during construction, to ensure that the habitats of protected species are safeguarded and maintained, and to ensure that biodiversity net gain proposals are appropriate, are necessary in the interests of the local environment and biodiversity.
30. A condition relating to the management of waste during construction is also needed to ensure that waste is dealt with according to the waste hierarchy. Conditions are also necessary to ensure that the specification of the fabric of the dwellinghouses minimises energy usage and that measures are taken to avoid unnecessary water usage.
31. In the interests of highway safety, a condition requiring provision from the outset and maintenance throughout the development's lifetime of the vehicular access and associated visibility splays is required, as are conditions requiring the provision of the approved car parking, turning areas and cycle parking with associated charging facilities.
32. I also consider that a condition is necessary to ensure that landing windows in two of the units have obscured glass in the interests of the privacy of the occupiers of neighbouring dwellinghouses.

Planning Balance and Conclusion

33. The Council does not have a five-year supply of housing land. As such, paragraph 11 d) of the Framework applies in this case. The appeal scheme would deliver three dwellinghouses which, in light of the Council's housing land supply position, is a benefit to which I attach significant weight. However, I attach a small amount of negative weight to the appeal scheme's failure to achieve adequate BNG. Nevertheless, I consider that there would be no adverse impacts that would significantly and demonstrably outweigh the benefits and, therefore, for the reasons given above the appeal should be allowed.

P Burley

INSPECTOR

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: 0001 Rev P03-WIP, 0002 Rev P01-WIP, 0003 Rev P01-WIP, 0004 Rev P01-WIP, 0005 Rev P01-WIP and 0006 Rev P01-WIP.
- 3) No development above ground level shall take place until details and samples of the proposed external facing and roofing materials including colour and finish have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
- 4) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The approved CEMP shall be adhered to throughout the construction period. The CEMP shall include:
 - a) an indicative programme for carrying out the works;
 - b) the arrangements for public consultation and liaison during the construction works;
 - c) measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of any piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s);
 - d) details of any floodlighting, including location, height, type and direction of light sources and intensity of illumination;
 - e) arrangements for the parking of vehicles of site operatives and visitors;
 - f) arrangements for loading and unloading of plant and materials;
 - g) arrangements for the storage of plant and materials used in constructing the development;
 - h) details relating to the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - i) wheel washing facilities; and
 - j) measures to control the emission of dust and dirt during construction.
- 5) No development shall take place until a Site Waste Management Plan has been submitted to and approved in writing by the local planning authority that demonstrates how waste generated from construction and excavation activities would be dealt with in accordance with the waste hierarchy. The Site Waste Management Plan will subsequently be kept up-to-date throughout the development process in accordance with the established methodology.
- 6) Prior to the commencement of development, a SAP output document shall be submitted to and approved in writing by the local planning authority. This shall demonstrate the Dwelling Fabric Energy Efficiency (DFEE) value is at least 20% lower than the Target Fabric Energy Efficiency (TFEE) value set by Building

Regulations. The approved details shall be implemented prior to the first occupation of the development and retained as operational thereafter.

- 7) Before the commencement of the development hereby approved, the following shall be 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 proposals as set out in the Preliminary Ecological Appraisal dated 15 April 2025.
 - b) evidence that any required off-site BNG (if proposed) has been secured for a period of 30-years. 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.
 - 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.

- 8) No works shall take place until the tree protection measures as identified in the submitted Arboricultural Report prepared by Harper Tree Consulting dated 1 November 2024 has been erected and the development shall be carried out as per the details within the report including the Arboricultural Method Statement.
- 9) The proposal shall be carried out in accordance with the measures and recommendations as detailed within the Preliminary Ecological Appraisal dated 15 April 2025.
- 10) No vehicle shall access the site unless and until the proposed vehicular access to Blackwell Avenue hereby approved has been constructed and provided with visibility zones in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and thereafter the visibility zones shall be kept permanently clear of any obstruction over 0.6m high.
- 11) 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 plan (0006 Rev P01-WIP) 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 area shall be retained and maintained for its designated purpose.
- 12) The development hereby approved shall not be first occupied unless and until facilities for the secure, covered parking of bicycles and the provision of a charging point for e-bikes 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 retained and maintained

- 13) The proposed staircase windows in the side northern and southern elevations of units 3 and 1 respectively shall be obscurely glazed to Pilkington Glass Level Four or equivalent, shall be top opening only in the room that they serve and shall be retained in perpetuity.
- 14) 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 local planning authority to demonstrate that this condition has been met.

End of Conditions