
Appeal Decision

Site visit made on 28 October 2025

by **N Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 November 2025

Appeal Ref: APP/Y3615/W/25/3368467

The Spinney, Heath View, East Horsley, Surrey KT24 5ED

- 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 under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr David Bowles against Guildford Borough Council.
 - The application Ref is 25/P/00459.
 - The application sought planning permission for the erection of a five bedroom detached dwelling with associated access, driveway and landscaping following the demolition of the existing house without complying with conditions attached to planning permission Ref 23/P/00967, dated 14 August 2023.
 - The conditions in dispute are Nos. 2 and 9 which state that:
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21101/07, 21101/10, 21101/02, 21101/01, 21101/103, 21101/04, 21101/11 Location Plan, 21101/08 Rev B, Block Plan and 21101/09 received on 17/11/21, 04/01/22 and 07/04/22, and drawing 21101-06-A received on 31/05/23.
 - 9) The boundary treatment scheme shown on Drawing 21101/PC/09 Rev A and supporting information submitted on 02/12/2022 under Discharge of Conditions application ref 22/D/00099/3 shall be implemented prior to the first occupation of the development. The approved scheme shall be maintained in perpetuity.
 - The reasons given for the conditions are:
 - 2) To ensure that the development is carried out in accordance with the approved plans and in the interests of proper planning.
 - 9) To safeguard the visual amenities of neighbouring residents and the locality.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a five bedroom detached dwelling with associated access, driveway and landscaping following the demolition of the existing house at The Spinney, Heath View, East Horsley, Surrey KT24 5ED in accordance with the application Ref 25/P/00459, without compliance with condition number 2 previously imposed on planning permission Ref 23/P/00967 dated 14 August 2023 and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appeal is made against the failure of the Council to decide the application within the prescribed period. The Council have provided a statement which indicates, in summary, that it would have no objections to the variation to condition 2 but that condition 9 remains reasonable and necessary.
3. Plans of the as built porch were not submitted with the appeal however were subsequently provided. As these matched what presently exists on the ground and as neither the Council nor third parties expressed objection to this element of the

proposal, I have accepted these plans and considered them as part of this appeal. This is not evolving the scheme contrary to the Procedural Guide: Planning appeals – England. Moreover, it is not a substantial difference or a fundamental change to the application. This is because it remains as was originally applied for and thus, for the same reason, would not cause procedural unfairness to any party.

Background and Main Issue

4. Planning permission was granted for a five bedroom dwelling under reference 21/P/02408 on 26 July 2022 subject to conditions. This permission was subsequently amended under reference 23/P/00967 on 14 August 2023. The principal differences to the scheme comprised elevational revisions to the proposed dwelling. In granting permission for the revised proposal, the Council updated a number of the conditions to reflect changed circumstances and that a number of details required by conditions on planning permission 21/P/02408 had been agreed in the intervening period. This included details provided pursuant to condition 9 which related to boundary treatment.
5. This proposal seeks to vary conditions 2 and 9 of the latter permission and therefore the main issue is whether the conditions are necessary and reasonable having regard to the effects of the proposal on the character and appearance of the area and living conditions of the occupants of neighbouring properties. This is being mindful of the guidance provided at paragraphs 56 and 57 of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG).

Reasons

Condition 2

6. The plans provided with the appeal showed two different porch designs: Plan 21101/06 which was approved by planning permission 21/P/02408 and 21101/06 Rev A which was granted planning permission under 23/P/00967. Neither of these plans appear to match that which has been built although the Council indicates it has no objection to this design. I find no reason to disagree with the Council's assessment. Indeed, my observations at the site visit indicate that the as-built porch integrates satisfactorily with the design of the house and would have a acceptable effect on the character and appearance of the area.
7. As I have mentioned above, plans of the porch were not provided with the appeal but were subsequently supplied. As these plans are undated, only show part of the development and/or do not contain a plan reference I have appended them to this decision. This is also for the avoidance of doubt as to what is approved given the later provision of the plans.

Condition 9

8. The approved boundary treatment plan (21101/PC/09 Rev A) indicates a 2 metre high timber fence on the eastern and western boundaries of the site and the retention of an existing hedge on the northern boundary. A replacement hedge is further indicated to the front of the fence on the western boundary. This comprises a mix of privet, laurel, potina and beech. Although this boundary has been landscaped, the mix of species does not appear to correspond with that which has been planted.

9. From the submitted information, it is not clear to me what treatment is now being proposed on the boundaries. The appellant's referenced plan (21101/PC/09) that was approved under planning permission 21/P/02408 contains no detail as to the species, stem spacing or other specification of the hedge and, no doubt, this was a factor in the Council's imposition of condition 8 on that first planning permission.
10. The Council, in its statement, has referred to an amended plan that was submitted during the course of the application, but this was not subject to consultation nor is it in evidence before me. Therefore, even were I to have sight of this, I would not be able to take it into account due to this lack of consultation potentially prejudicing interested parties.
11. I find that there would likely be no objection in principle to the modification of the boundary treatment, indeed, the introduction of more suitable native species is likely to be desirable. Even so, in the absence of clarity as to what is being proposed, I am unable to consider this any further. Equally, I am not satisfied that a complete removal of condition 9 would be in the interests of the character and appearance of the area given its sylvan setting. Therefore, I must conclude that condition 9 remains reasonable and necessary. Moreover, whilst the reasons expressed for the condition are brief, they are quite precise, and I find no conflict with the requirements of the PPG in this regard.
12. I have been mindful of the appellant's comments regarding the imposition of the original condition, alleged procedural unfairness and queries as to the lawfulness of it. However, I have insufficient detail before me on this matter to form a conclusion. In any case, it is not within my remit in the context of this s73 appeal to address this, particularly given that the normal six week period for making any form of legal challenge to the decision on such grounds has long since passed.
13. Whilst there may have been a fence on the boundary prior to the construction of the new dwelling, this is somewhat immaterial as boundary controls remain a condition of the new dwelling. As no clear alternative solution has been put forward, I have limited reasons to agree to its removal. For similar reasons, I am unable to draw comparison to the other examples cited by the appellant on Heath View and Chobham Way as the individual circumstances of these sites are likely to differ to the one in hand here.
14. In conclusion, I find that condition 9 remains reasonable and necessary and otherwise in accordance with the PPG and Framework. Although I am allowing the appeal insofar as it relates to condition 2, I have re-imposed condition 9 for the above reasons.

Other Matters

15. I am aware that there are queries surrounding the land ownership of the area of land where the hedge is to be planted. However, land ownership is a civil matter and it cannot influence my decision here.
16. I am aware that local residents have made observations relating to this proposal. However, as these do not concern the redesign of the front porch, and that the appeal is to be dismissed on the grounds against which matters of concern were expressed, I do not need to explore these further here.

Conclusion

17. I have found that the alteration to the design of the front porch is acceptable and I therefore am satisfied that condition 2 can be varied to relate to this new design.
18. However, due to a lack of clarity on what variation to condition 9 is being sought and its potential effects on the character and appearance of the area and neighbours living conditions, I am unable to make a full assessment of the proposal in this regard. Equally, a complete removal of this condition is unjustified in this local context. Therefore, I cannot conclude in any other manner other than to find that the existing condition 9 is reasonable and necessary for the same reasons stated by the Council and it must be re-imposed here.

Conditions

19. As the effect of this decision is to create a new planning permission, I have re-imposed the conditions of planning permission 23/P/00967, with modifications where necessary and edits to accord with the PPG and paragraph 57 of the Framework and to reflect changes in the intervening period that have been highlighted by the Council in its statement. These changes reflect subsequently agreed details so as to avoid the need to reimposed further pre-commencement conditions.
20. In so doing I have removed condition 1 of the original planning permission as this is a time limit condition and the development is already substantially complete. I have also modified condition 2 to make reference to the plans relating to the redesigned porch. The reasons for the conditions remain as per the Council's decision notice.

N Bowden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 21101/07, 21101/10, 21101/02, 21101/01, 21101/103, 21101/04, 21101/11 Location Plan, 21101/08 Rev B, Block Plan and 21101/09 received on 17/11/21, 04/01/22 and 07/04/22, drawing 21101-06-A received on 31/05/23, amended drawing 21101/105 received 8 April 2025. This is excepting insofar as they are modified by the undated and unreferenced plans accompanying planning application 25/P/00459 and to which extract copies are shown at the appendix to this decision.
2. The development shall be carried out in accordance with the External Material details provided under Discharge of Condition reference 22/D/00099/1. The materials include:
 - External walls: Ibstock Bristol Mixed Red Brick A0655A
 - Roof: Grey Slate - CUPA 18 grey (smooth surface)
 - Windows: White timber with sandstone surrounds
 - Rainwater goods: Osma, Wavin, Deepflow round profile black or similar
3. The development is to be carried out in accordance with the provided energy and sustainability information detailing the full SAP calculation print out and BREL Compliance Report provided by Elmhurst Energy submitted on 31/05/23 and is to be retained in perpetuity.
4. 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), as demonstrated by the following documents submitted under discharge of condition application 25/D/00043:
 - 21101 / The Spinney, Heathview, East Horsley, KT24 5ED (The Water Efficiency Calculator for new dwellings).
5. The development hereby approved shall not be occupied unless and until the proposed dwelling is provided with a fast charge socket (current minimum requirements - 7kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with the approved scheme shown on following documents (as agreed under discharge of condition application 25/D/00043):
 - Sync energy 'Wall Charger 2 Socketed' (details of installed charger)
 - Photo of installed car charging point
 - Site Planand thereafter retained and maintained to the satisfaction of the Local Planning Authority.
6. 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 by said facilities have been provided within the development site in

accordance with the approved scheme shown on the following documents (as agreed under discharge of condition application 25/D/00043):

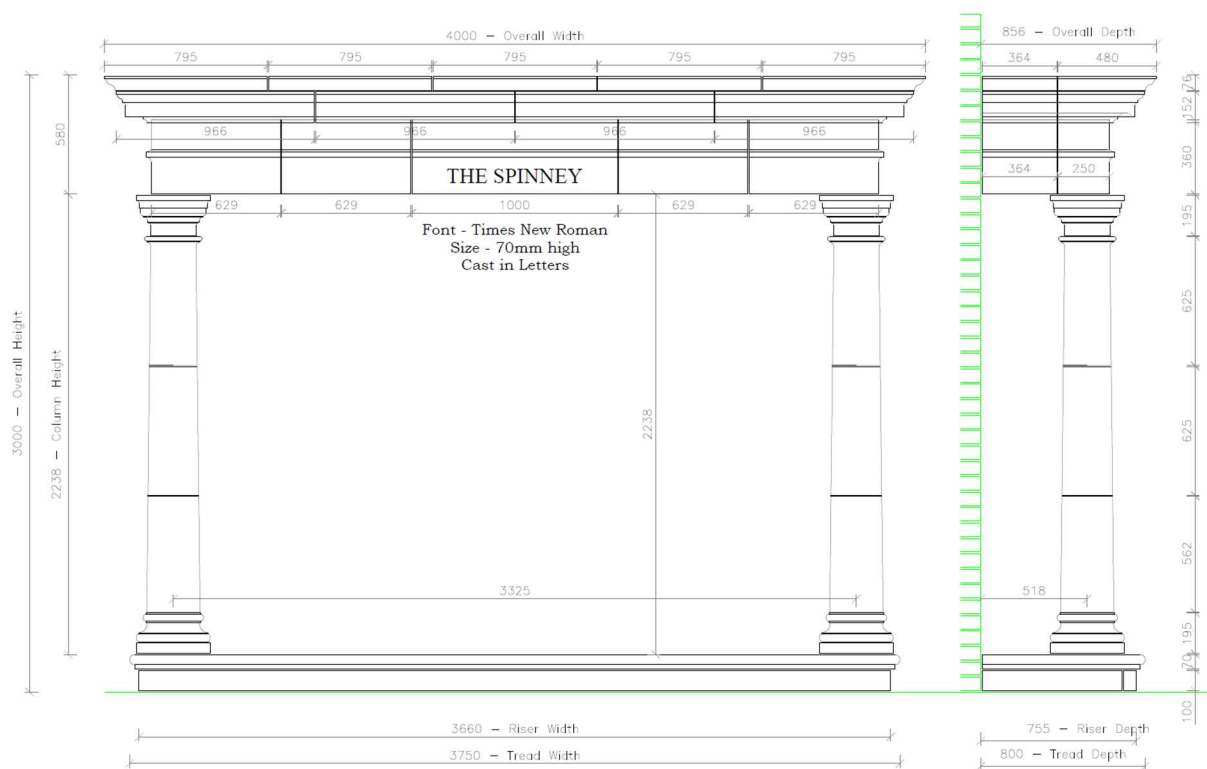
- Photo of installed cycle charging points
- Site Plan

and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

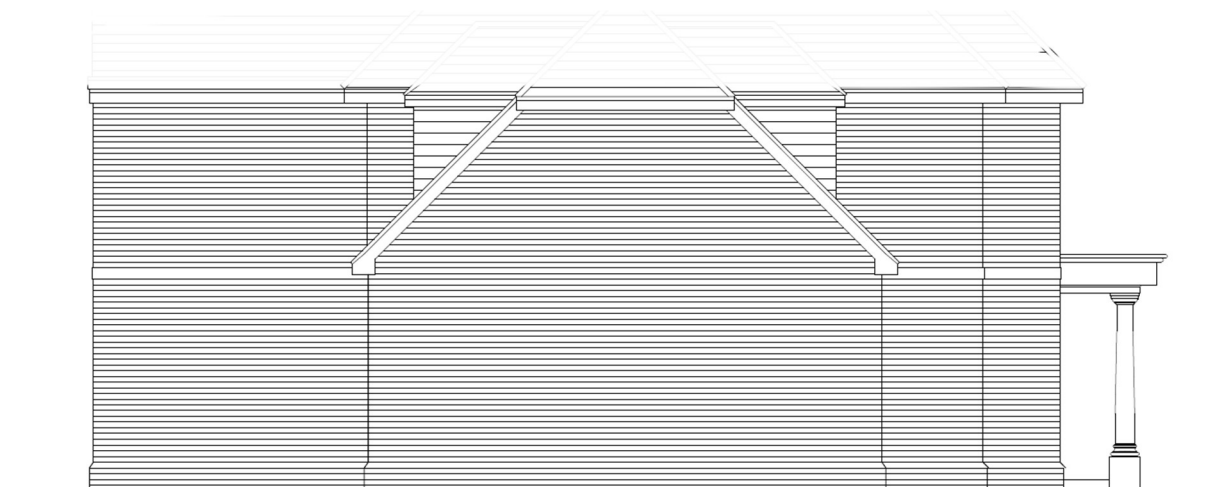
7. Any development works must be carried out in accordance with this permission must be carried out in accordance with the submitted Tree Protection Plan (drawing no. 21101/11 submitted under 21/P/02408) and as per the current recommendations within the British Standard BS5837:2012 'Trees in relation to design, demolition and construction. The fencing shall be retained in its approved form for the duration of the work.
8. The boundary treatment scheme shown on Drawing 21101/PC/09 Rev A and supporting information submitted on 02/12/2022 under Discharge of Conditions application ref 22/D/00099/3 shall be implemented prior to the first occupation of the development. The approved scheme shall be maintained in perpetuity.
9. The development shall be carried out in accordance with the approved Site Waste Management Plan and details submitted under Discharge of Conditions Application 22/D/00099/1. The Site Waste Management Plan will subsequently be kept up-to-date throughout the development process in accordance with the established methodology.
10. The development hereby permitted shall not be occupied until bird nesting and roosting boxes have been installed on the building or in any trees on the site in accordance with details following details as agreed under discharge of condition application 25/D/00043:
 - Photos of bird boxes in situ
 - Site plan

End of Schedule

Appendix – plans referred to in condition 2



Proposed
FRONT ELEVATION



Proposed
SIDE ELEVATION