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## Appeal Decision

Site visit made on 23 June 2014

**by Sara Morgan LLB (Hons) MA Solicitor (Non-practising)**

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 3 July 2014**

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**Appeal Ref: APP/D3640/A/14/2210973**

**5 - 7 Prior End Camberley GU15 1JW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Townside Homes (Camberley) Limited against the decision of Surrey Heath Borough Council.
  - The application Ref 13/0224, dated 4 April 2013, was refused by notice dated 9 August 2013.
  - The development proposed is demolition of 5 and 7 Prior End and erection of 10 houses (4 x 2 beds, 5 x 3 beds, 1 x 4 bed) together with associated parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Townside Homes (Camberley) Limited against Surrey Heath Borough Council. This application is the subject of a separate Decision.

### Preliminary

3. The address of the appeal site is taken from the Appeal Form; the address on the application form is clearly incorrect as it omits 7 Prior End.
4. The Council originally refused permission on seven grounds. Three of those, relating to the absence of affordable housing (Reason 4) and contributions towards infrastructure (Reason 6), and inadequate turning area for HGVs (Reason 7), were withdrawn after the appeal was lodged.
5. The Council has also confirmed that Reason 5 relating to the effect of the development on the Thames Basin Heaths Special Protection Area (SPA) has been overcome by a completed unilateral undertaking providing for the payment of money towards the provision of Suitable Alternative Natural Green Space. Without this unilateral undertaking it would not be possible to be satisfied that the development would not have an adverse effect on the integrity of the SPA. The undertaking satisfies the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and the National Planning Policy Framework ("the Framework"). It can therefore be taken into account in this appeal.

## **Main Issues**

6. In the light of the above, the main issues are: (1) the effect of the proposed development on the character and appearance of the surrounding area; (2) whether the proposed development would provide adequate living conditions for its future occupiers, with particular reference to amenity space; and (3) the effect of the proposed development on a protected tree.

## **Reasons**

### *Character and appearance*

7. Prior End is a short cul-de-sac of four detached dwellings off Portsmouth Road, Camberley. The appeal site comprises the plots of the two of these dwellings furthest from Portsmouth Road and closest to the M3 motorway, which is adjacent to the appeal site. The appearance of this part of Prior End is dominated by the existing large trees and mature vegetation both within and adjoining the appeal site, and on the opposite side of Prior End. Mature trees and vegetation can also be seen above the fence along the edge of the M3, and on either side of the Portsmouth Road.
8. There is a marked difference in character between Prior End and the adjoining development in Old Portsmouth Road, the development of detached houses immediately adjoining the south-western boundary of the appeal site. This area, although also comprising detached houses, is far less verdant. Despite there being some mature trees in the area, its appearance is dominated by the dwellings themselves, their largely open front gardens, many of which have parking immediately in front, and mown grass verges. Prior End, in contrast, has an enclosed character largely due to the mature trees and other vegetation on either side of the road and on the frontages of Nos 3, 5 and 7, which tend to create a green tunnel effect.
9. The Council's "Western Urban Area Character Supplementary Planning Document" (SPD) identifies the appeal site as lying within the "Wooded Hills" character area. The SPD identifies dense vegetation as one of the key characteristics, with strong enclosure of the street scene by dense, mature vegetation creating a green tunnel and with houses set back behind vegetative screens and either not visible or glimpsed through the greenery. These are all characteristics seen in Prior End.
10. The appellants argue that the road and plot layouts of Prior End are much more closely related to the character of the adjacent Old Portsmouth Road, which the SPD places in the category "Contemporary Paved Estates". It is true that the dwellings at Nos 1 and 3 Prior End resemble those in Old Portsmouth Road in design, and No 1, on the corner adjoining Old Portsmouth Road, lacks the frontage vegetation seen in the remainder of the road. But otherwise the character of Prior End closely resembles that described in the Wooded Hills character area.
11. The dwellings in Old Portsmouth Road are barely visible from within the appeal site or from Prior End itself, and the street scene is not visible at all. Its character and appearance have no influence on the character and appearance of Prior End. Nor does the character of the M3, which also cannot be seen from Prior End although its boundary fence is visible and the noise of traffic on the motorway can be heard.

12. The appearance of the development would be dominated by the built form of the two blocks of terraces at the front, together with the parking and hard surfacing in front of units 1-4 and the access road in between the two blocks. Landscaping is shown at the front of the site. But because the dwellings on the plot of No 7 would be so far forward there would be very little room between the back of the footway and the front elevation for any effective planting, and that planting would be unlikely to be allowed to grow to any great height because of its effect on light reaching the windows in the terrace's front elevation.
13. Even though there would be more scope for some planting at the front of what is now No 5's plot, the frontage here would still be dominated by the building's elevation, together with the car parking and hardstanding at the front. There would be very little space for meaningful landscaping between the two blocks, because of the location of the access drive to the block at the rear, or between the appeal site and No 3 Prior End. The block at the rear of the site would also be visible from Prior End, which would underline the amount of built development on the site.
14. The appearance of the development would not respect the local highly vegetated character and appearance of Prior's End, and indeed would seriously damage the existing character of the road. The terrace blocks would not be hidden or glimpsed through greenery, but would be prominent in the street scene. Their appearance would more closely resemble the Contemporary Paved Area of Old Portsmouth Road than the existing appearance of Prior End, albeit with an appearance of a greater density of development even than Old Portsmouth Road. Consequently the development would conflict with policy DM9 (ii) of the Surrey Heath Core Strategy and Development Management Policies Document 2012 (LP). This requires development to respect and enhance the local character of the environment.
15. In addition, the development would not respect the guiding principles for development within the Wooded Hills character area contained in the SPD, which is a requirement of LP policy DM9. This is because the layout of the scheme would not allow for the maintenance of the verdant character of the area, but would result in a harsh urban landscape, because of the extensive areas of hardstanding proposed and the visual prominence of the buildings, and because the development as a whole would erode the soft green semi-rural character of the area and the green tunnel character of Prior End.
16. The two dwellings on the site at present are of no particular architectural merit, and planning permission has been granted in the past for redevelopment of No 5 Prior End for flats. The Council has not objected to the principle of redevelopment of the site. But the design of any redevelopment scheme should accord with the requirements of the development plan. What is proposed here does not do that.
17. Other developments constructed in the area in the area have been referred to which have some similarities to what is proposed here. But from what I saw of them it was not clear that their surroundings displayed the same verdant characteristics as can be seen in Prior End. Furthermore, there are no details of the circumstances in which they were permitted, or the character and appearance of those sites before they were constructed, and it is not clear that

the policy background was similar. They do not persuade me that planning permission should be granted for this development.

18. For the reasons set out above, I conclude that the development would harm the character and appearance of the surrounding area and would conflict with LP policy DM9 (ii) and the advice in the Council's SPD.

#### *Amenity space*

19. The Council's reasons for refusal referred to the poor level of amenity space provision for the future occupants of plots 5 - 7 as a consequence of the significant shading from a group of mature trees along the south western boundary of the appeal site. In its statement, the Council also expresses concern over shading from a Wellingtonia (T18 in the arboricultural survey) located to the side of plot 10. These trees are prominent in the local area and add to its verdant character, and are protected by tree preservation orders.
20. There is no doubt that the trees along the south western boundary would cast shade upon the gardens of plots 5, 6 and 7 during much of the day. However, the appellants say that substantially more than half of each of the gardens of these plots would receive more than two hours of sunlight on 21 March in each year, which would accord with guidelines set out in the Building Research Establishment (BRE) report "Site Layout Planning for Daylight and Sunlight". That has not been challenged by the Council. Under these circumstances, the quality of amenity space for these properties would be reasonable.
21. In those circumstances, although future occupiers might pressure the Council to agree to tree works in future that pressure ought to be capable of being resisted. It is not argued by the Council that the trees are so close to plots 5 - 7 that either the houses or the trees would suffer physical damage, and the Council ought to be able to resist requests for tree works made on the basis of the inconvenience of leaf litter.
22. Residents may be concerned at the perceived threat from very high trees, particularly in high winds. The Council refers particularly to the Wellingtonia T18. However, because of the height of some of the trees on the site that would be likely to be already true of any occupiers of the existing dwelling at No 7 if that dwelling were to be bought back into use and, albeit to a somewhat lesser extent, occupiers of the closest dwellings in Old Portsmouth Road. I am not satisfied that the Council would be unable to resist unreasonable pressure to carry out works to prune or fell these trees if the proposal went ahead.
23. I conclude that the level of amenity space to serve future occupiers of the development would be sufficient to provide acceptable living conditions for those occupiers. The development would not, therefore, conflict with policy DM9 (iii) of the LP, which requires developments to provide sufficient private amenity space.

#### *Effect on protected trees*

24. I have already commented above on the Council's argument that the development would lead to pressure to carry out works to protected trees. The Council has also expressed concerns about the effect of constructing the dwelling on plot 10 on the root protection area of the Wellingtonia T18.

25. The appellants have produced a drawing showing a tree protection zone based on the recommendations given in BS 5837:2012. The construction of the terrace containing plots 8, 9 and 10 would encroach significantly into that root protection area. The appellant's arboricultural report says that because of the very thick bark of Wellingtonia trees, the BS 5837 generic formula for the calculation of root protection areas produces an area in excess of what would ordinarily be considered sufficient to retain the tree unharmed.
26. The appellants suggest that an alternative root protection area extending as far as the flank wall of unit 10 would be adequate. This assumes that part of the area beneath the tree has been compacted by vehicular traffic because it supported an unsurfaced access drive, and that would have reduced or prevented root spread into the drive area. But there is little information as to exactly where the access drive ran, and no information as to whether the tree's roots do extend under the former access drive.
27. The Council has referred to information indicating that the root system of a mature Wellingtonia can spread typically around 100-150 feet from the central stem, concentrated in the uppermost 12 to 18 inches of the soil. This has not been seriously challenged. The Council also disputes whether the existence of the access drive would have discouraged rooting in that area, particularly in view of the proximity of the metalled road which itself would be likely to lead to the tree roots spreading elsewhere including under the access drive. Under these circumstances, I cannot be satisfied that constructing foundations within the BS 5837 root protection zone would not give rise to a significant likelihood of harm to the future well-being of this tree.
28. The height and prominence of the tree locally and its positive contribution to the appearance of the area make it an important feature, and any harm to its future well-being would have an unacceptably harmful effect on the character and appearance of the surrounding area. Consequently it is important to reduce as far as reasonably possible any risks to the future health of this tree. This development has failed to do that.
29. The appellants' consulting engineers have indicated how the foundations of the building nearest to the tree could be constructed to reduce damage to tree roots, but that is on the basis of the BS 5837 root protection area being greater than is necessary for a Wellingtonia. I am not satisfied on the information before me that that is the case.
30. They have also pointed to two other examples where buildings have been constructed close to a Wellingtonia, which appear not to have caused any harm to the health of the tree. But insufficient details have been provided to show that the circumstances relating to those trees are sufficiently similar to the circumstances here for them to be considered a guide to what might happen to tree T18 if the development were to go ahead.
31. On the information available I conclude that there is a significant risk that the development would harm the long-term well-being of the Wellingtonia T18. Consequently it would conflict with policy DM 9 (iv) of the LP, which requires development to protect trees worthy of retention.

*Overall conclusions*

32. Although I have concluded that the proposed development would provide sufficient private amenity space for future occupiers, I have also concluded that it would be harmful to the character and appearance of the surrounding area, and could present a risk to the long-term well-being of an important tree on the site. The negative aspects of the development significantly outweigh its benefits, including the benefits of providing additional family homes in this sustainable location, and indicate that planning permission should not be granted.
33. For the reasons given above I conclude that the appeal should be dismissed.

*Sara Morgan*

INSPECTOR

Richborough Estates