



Appeal Decision

Site visit made on 10 February 2025

by **M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 March 2025

Appeal Ref: APP/D3640/W/24/3342075

Threapwood, 36 The Maultway, Camberley, Surrey GU15 1PS

- 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 Aquinna Homes PLC against the decision of Surrey Heath Borough Council.
 - The application Ref is 23/1224/FFU.
 - The development proposed is redevelopment of site to provide a housing development (Class C3) comprising a mix of houses and flats, with associated landscaping, car & cycle parking.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - a) The effect of the development on the character and appearance of the area;
 - b) The effect on the living conditions of neighbouring residents with regard to privacy and outlook;
 - c) The effect on the living conditions of future occupiers of the site with regard to the potential for noise disturbance;
 - d) The effect on highway safety;
 - e) The effect on biodiversity and ecological interests; and
 - f) Whether the proposal would provide an appropriate mix of affordable housing.

Reasons

Character and appearance

3. The site, currently occupied by a single dwelling, fronts and is accessed from The Maultway, a busy road that provides a clear boundary to the built-up area. Dwellings in the immediate vicinity are set in spacious plots giving a low-density character to this part of the urban edge. There are only dwellings on one side of The Maultway and, along with the density of plots, this gives the area a distinct urban-fringe character.
4. However, the M3 motorway overbridge with its railings and crash barriers, immediately adjacent to the site, and the wide, formal appearance of The Maultway generally, have distinct urban characteristics. In the opposite direction to the motorway, there is a hard, tall boundary fence alongside 30 The Maultway.

That is followed by the wide junction with, and views of, the suburban roads around Sovereign Drive. Beyond that, the dwellings at Marstan Place are close to The Maultway, and have a strong imposing frontage to the road, with a distinctly suburban character.

5. Despite its inclusion in the Contemporary Paved Estates area within the Western Urban Area Character Supplementary Planning Document 2012 (SPD), the higher density suburban form Sovereign Drive and its various cul-de-sacs does not currently extend across the appeal site. However, given the characteristics of The Maultway and Marstan Place, this proposal for densely arranged housing would not be significantly at odds with the prevailing character of the surrounding area, or the defined character area within which it has been included and will adjoin.
6. Guiding principles of the SPD indicate that new developments in the Contemporary Paved Estates character areas should be principally two-storey. More than half of the proposed buildings would be, but the houses fronting The Maultway would be a full two storey with further rooms in the roof served by dormer windows fronting the highway. The flats, also on the road frontage, would be higher still, with the second floor partly included in the wall height. However, their expansive elevations would be broken up with changes in materials and balconies, such that they would not have an overly blocky appearance.
7. While buildings of a more institutional character, such as the flats, do not currently have a presence on The Maultway, those around Marstan Place do have wide elevations. Their roofs are also steeply pitched and can be seen from Sovereign Drive to include accommodation. The centre of the access would be roughly aligned with a gap between two pairs of semi-detached houses. However, the gap would not be large, and the overall space would be defined by the dwellings, providing some visual interest.
8. Moreover, the proposal seeks to retain boundary hedging to The Maultway which would integrate it into the street scene in a similar manner to Marstan Place. It would extend the visual presence of housing further south towards the motorway, but given the highly engineered nature of the environment at that location, the retention of trees on the part of the site closest to the motorway embankment, and openness provided by the extensive undeveloped land on the opposite side of the road, the urban-fringe character of the area would remain.
9. Within the development, while expansive areas of parking would be hidden from The Maultway and no more than three spaces would be provided without a gap, the spaces in the largest area would only be broken up by some small areas of grass. This would not produce a meaningful break. The plans propose few trees and the overall space around the terraced houses and flats would be dominated by vehicles.
10. The shared surface would likely be safe and convenient for residents to access on foot, but the visual appearance would be somewhat poor. The bin and bike stores for the flats are also poorly related to other buildings. All of this is somewhat at odds with the Principles of Residential Design Guide Supplementary Planning Document 2017 that seek to create streets that favour the needs of pedestrians, and use trees, vegetation and gardens to create strong soft, green characters to streets.

11. I, therefore, find that the proposal would result in conflict with those aims of Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 (CSDMP) that seek to ensure development achieves a high quality design that and provides high quality hard and soft landscaping.

Neighbouring residents

12. The proposal would bring new dwellings close to existing ones at Martel Close and Curtis Close. They would be at a higher level than the existing neighbours. The closest would be adjacent to 24 Martel Close which presents a gable end wall with small window to the site boundary. The side wall of proposed plot 10 would face towards Martel Close and would be set significantly forward of No 24, such that it would interfere with lines drawn at 45 degrees from its habitable front windows.
13. However, No 24 does not currently enjoy an outlook across the appeal site because tall trees line the site boundary. While less solid than a brick wall, they would currently have a significant presence on the outlook and light available to those front windows. As the roof of plot 10 would be hipped, and so slope away from the site boundary, I find that it would not have a significant effect on the living conditions of No 24, when compared to the existing situation.
14. Rear windows of 18 and 19 Martel Close, and 12 and 13 Curtis Close face towards the site. This pair of dwellings are set at an angle to the site boundary, such that No 12 is closer. The change in ground level, upwards towards the site can be readily appreciated from Curtis Close.
15. Nevertheless, irrespective of how accurately the site boundary is drawn on the plans, while the boundary trees are shown to be removed and the new dwellings would be significantly higher, the distances between the dwellings would be similar to those commonly found in many suburban areas. The separation would, therefore, be sufficient to avoid a harmful loss of privacy. The distances would also prevent an overbearing effect on outlook, again taking account of the trees presently on the boundary.
16. Elsewhere, plot 18 would sit comfortably alongside 34 The Maultway and, while 30 The Maultway faces towards the site, it would be sufficiently distanced from plot 19 to avoid any harm to outlook. A kitchen window, small second floor bedroom window and first floor bathroom window would face towards No 30. However, these would be across the semi-public driveway serving Nos 30-34 and the open front parking area. Therefore, there would not be a harmful loss of privacy to No 30.
17. For the above reasons, I find that the proposal would not cause material harm to the living conditions of neighbouring residents. Accordingly, there would be no conflict with those aims of CSDMP Policy DM9 that seek to ensure that development respects the amenities of neighbouring residents.

Noise

18. The site is alongside and higher than the M3 motorway, which is in a cutting close to the site boundary. The site, therefore, experiences a high degree of, almost continuous, road noise.
19. The appellant's noise report concludes that acceptable internal noise levels can be achieved using suitable double glazing and passive trickle ventilation. A detailed design solution or clear set of requirements has not been provided, but there is no substantive evidence as to why suitable standards could not be met. While the external garden spaces may be noisy, numerous nearby dwellings have a similar relationship to the motorway. There is no suggestion that those residents do not enjoy acceptable living conditions. Moreover, the Council's officer report and reason for refusal focusses on the provision of acceptable internal conditions.
20. I, therefore, conclude that it would be possible to secure final details for the design of the buildings via a planning condition. With such in place, future residents would enjoy acceptable living conditions with regard to noise. I have no reason to find that there would be any conflict, for noise reasons, with those aims of CSDMP Policy DM9 that seek to provide a high quality design.

Highway Safety

21. A 50 miles per hour speed limit is in place along The Maultway. I understand that the road is busy, especially following recent development elsewhere, and there is frequently queuing traffic in the area. Local residents have advised me of numerous accidents close to the access with Heathside Park, but that is on the opposite side of the motorway and so they do not indicate shortcomings in the highway network around the site.
22. The proposed access would be closer to the access to Oaken Copse than is usually permitted, but nevertheless, since permission was refused, the Local Highway Authority (LHA) have withdrawn their objection to the scheme. It is unclear precisely what has prompted the change in stance from the LHA, and no amended drawings have been provided.
23. Nevertheless, the alignment of The Maultway is such that there is good visibility available from the site frontage, giving suitable sight from and of emerging traffic. The small number of dwellings at Oaken Copse means that traffic movements and the potential for conflict with traffic at the appeal site would be very limited. I see no reason that people visiting the new development would, with any significant regularity, mistake its formalised access for the one at Oaken Copse that more resembles a private drive.
24. The proposed layout provides sufficient parking spaces for the number of dwellings. While there might be some occasions where additional visitor parking may spill into Sovereign Drive and its associated roads, there is no reason to believe that this would occur to such a level that it would cause a significant inconvenience beyond those already visiting dwellings in that area, or present a risk to highway safety.
25. If I were to find that it were enforceable, the submitted planning obligation would provide a contribution that could be used for improving bus stops, which would encourage travel by non-car means. With regard to the above, and given that the

LHA and Council both now confirm that, subject to conditions and the financial contribution, there is no reason to object to the scheme on highway related grounds, I find that there would be no adverse effect on highway safety.

26. Accordingly, there would be no conflict with those aims of CSDMP Policies CP11 or DM11 that seek to ensure that development does not adversely impact the safe and efficient flow of traffic movement, and promote accessibility for all users and improvements to public transport.

Biodiversity

27. The Black Hill and White Hill Sites of Nature Conservation Importance (SNCIs) lie on the opposite side of The Maultway to the site. It is likely that construction activities can be controlled such that those works have no harmful effect on the sites. However, the appellant's Ecological Impact Assessment (EclA) indicates that there could be adverse effects on the sites from increased, ongoing recreational pressure. It recommends that the managing bodies of the sites should be consulted regarding measures required to minimise such impacts. That does not appear to have been done.
28. I understand that the SNCIs are owned by the Ministry of Defence, but they are accessible from The Maultway and I have no reason to believe that they are not available for public recreation for much of the time. While the appellant suggests that details could be provided by condition, I have no way of knowing what sort of details may be required or whether it is appropriate or possible to secure such mitigation by way of a planning condition.
29. SNCIs are the lowest in a hierarchy of designated sites listed in CSDMP Policy CP14A, nevertheless, that policy seeks to ensure that development adjacent to SNCIs has no adverse impact on the integrity of the nature conservation interest. It may be that consideration of an application for the development at Marstan Place made no explicit reference to the SNCIs, but that application was determined more than 10 years ago and it has not been shown that the understanding of potential impacts on the sites then and now is comparable.
30. Slow worms are known to be present on the site and translocation to a receptor site is required to protect them. The appellant suggests that a condition could be used to secure mitigation, but the EclA recommends a planning obligation. I am not satisfied that a condition would be suitable because future safeguarding and ongoing management of the receptor site would be required. No such obligation is before me.
31. There is also potential for hazel dormouse to use parts of the site and no detailed survey of that species has been undertaken. The appellant says that this is because their EclA confirms that they can be scoped out of the survey effort, subject to the northernmost scrub on the site being retained.
32. However, not only is it unclear what is referred to as the 'northernmost scrub', that does not appear to be what the EclA says. Rather, its advice is that hazel dormouse can be scoped out provided that there is confirmation that additional clearance is limited to the northernmost scrub only. Elsewhere the EclA says that it has been scoped out on the understanding that further vegetation clearance is kept to the ornamental vegetation at the north of the site.

33. The EclA notes that there has been some woodland clearance on the site, but still confirms that the remaining boundary vegetation at the edges of the site represent a well-connected stretch of native and non-native hedgerow with connectivity to the motorway corridor embankment that has potential suitability for hazel dormouse. It then goes on to say that only minor additional habitat removal is due to be undertaken as a result of development proposals 'limited to the ornamental planting to the north of the application site, which is suboptimal for dormice'.
34. Thus, it would seem that, despite the tree felling that has taken place, other parts of the site may still provide suitable habitat and the plans show widespread clearance of boundary vegetation. It has not been shown that this would relate solely to the 'ornamental planting' described in the EclA.
35. I find that insufficient evidence has been provided to confirm that hazel dormouse can be scoped out of the survey effort. Where there is potential for harm, it is important to understand the presence of protected species on site prior to the grant of planning permission, otherwise the potential effect and ability to avoid harm or provide suitable mitigation cannot be taken into account.
36. For the above reasons, I find that the proposal would cause harm to biodiversity interests. Such would lead to a conflict with those aims of CSDMP Policy CP14A that seek to ensure that features of interest for biodiversity are not lost.

Affordable housing

37. Nine of the 24 homes would be provided as affordable housing. The Council has confirmed that that is a sufficient number to comply with the 40% requirement set out in CSDMP Policy CP5. However, they would all be one-bedroom shared-ownership or 'First Home' flats.
38. Policy CP5 states that, in seeking affordable housing provision, the Council will assess scheme viability, including assessing the overall mix of affordable unit size and tenure. The policy also clarifies that, over the lifetime of the Core Strategy, the Council will seek a target of 35% of all net additional housing as affordable, split evenly between social rented and intermediate.
39. Conflict with CSDMP Policy CP6 has not been alleged in the reason for refusal, but it is referred to in evidence by both main parties. The policy sets out a general expectation that housing should be provided in accordance with the Strategic Housing Market Assessment or other subsequent assessments. The Council has explained that the latest Local Housing Needs Assessment (2024) indicates that only 20% of shared ownership homes should be provided as 1 bedroom units, which is not disputed by the appellant.
40. Policies CP5 and CP6 are broad statements of the Council's general objectives and do not set out strict site-by-site stipulations in terms of housing mix. Nevertheless, their aims are to meet the borough's housing needs, whilst allowing some flexibility through negotiation where development viability dictates. As meeting local needs is a 'general expectation' of the policies it follows that the starting point should be to follow the latest evidence as to what that might be. Significant departure from it, such as in the present case, should be justified.
41. A lack of social or affordable rented accommodation has been justified by evidence of a lack of interest in the site from registered providers. The inclusion of

First Homes in the tenure mix does not present a policy conflict. However, other than an unsubstantiated assertion about viability, the justification for the affordable dwelling sizes provided in this case is that the proportion of 1-bedroom units appeared to have been accepted by the Council during pre-application discussions.

42. The written pre-application advice did, indeed, clarify that the mix of dwelling sizes was appropriate with regard to the site's location and accessibility characteristics. In a separate section about affordable housing, no mention was given as to the sizes. While it appears that a different scheme was on the table, assuming that it was clear that the affordable units were all to be 1 bedroom flats, that is unfortunate.
43. Nevertheless, I must determine whether the scheme before me complies with the development plan. There is no substantive evidence that suggests that there should be a departure from the general expectation that development should meet up to date local housing needs. I, therefore, find that the proposal conflicts with Policies CP5 and CP6 insofar as they seek to secure an appropriate mix of affordable housing.

Other Matters

44. In addition to matters connected with the main issues, planning permission was also refused due to inadequacies in the drainage information provided. However, the Council has since accepted that this matter could be dealt with via planning conditions attached to any grant of planning permission and I see no reason to disagree.
45. There was also a reason for refusal relating to a lack of contribution in respect of mitigation for impacts on European sites. The Council has raised some concerns about the enforceability of the submitted planning obligation. However, it would appear that this matter is capable of being mitigated through an appropriately worded deed.
46. I understand that the appellant is frustrated by the way that the Council handled the planning application process. However, this has little to do with the planning merits of the scheme and, ultimately, I must make my decision on the basis of the development plan and other material considerations.

Planning Balance

47. Following revisions to the National Planning Policy Framework (the Framework) and Planning Practice Guidance, the Council can only demonstrate between a 3 and 3.7 year supply of housing land. As such, Framework Paragraph 11 d) ii indicates that planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits when considered against the policies of the Framework, taken as a whole.
48. I have found that the proposed layout would not provide a high quality urban environment for future residents. While harm in that regard may be limited, given that it would not affect off-site interests, I have also found that a number of biodiversity matters have not been properly addressed. Such would result in harm to biodiversity, avoiding which is an important component of delivering sustainable development.

49. Balanced against this, a significant number of homes would be provided in an accessible location on previously developed land. That has strong support from the Framework, but the benefits associated with this are heavily tempered by my findings that the resulting residential area would not be of high quality and would not provide a mix of affordable housing to meet local housing needs.
50. Therefore, in this case, the harm would significantly and demonstrably outweigh the benefits when the policies of the Framework are taken as a whole. The proposal does not benefit from the presumption in favour of sustainable development outlined at Framework paragraph 11.
51. I have found conflict with the development plan in respect of the quality of the proposed urban environment, affordable housing and biodiversity. As the lack of harm in respect of highway safety, living conditions and drainage are neutral in the planning balance, this results in conflict with the development plan, read as a whole. Material considerations do not indicate that a decision should be taken otherwise than in accordance with it.
52. Therefore, the appeal is dismissed.

M Bale

INSPECTOR