



Appeal Decision

Site visit made on 4 September 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/P3610/W/23/3335744

6A Bucknills Close, Epsom KT18 7NY

- 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 Dean Bowie (Nuro Homes Limited) against the decision of Epsom and Ewell Borough Council.
 - The application reference is 23/00577/FUL.
 - The development proposed is demolition of residential dwelling at 6A Bucknills Close and the construction of six residential units (1 x 2-bed, 2 x 3-bed and 3 x 4-bed) (Class C3) together with car parking, landscaping and access arrangements.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 30 July 2024, the Government published a consultation on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation", alongside a Written Ministerial Statement (WMS) entitled "Building the homes we need". I have had regard to these as material considerations, albeit noting the Framework text is in draft and subject to change, which limits the weight to be afforded to it at this stage.

Main Issues

3. The main issues are:
 - Whether the proposal would provide a safe means of access to the development;
 - Whether sufficient car parking space would be provided;
 - Whether the proposal would provide adequate landscaping.

Reasons

Access

4. The site is accessed via a driveway from Whitehorse Drive which serves the existing dwelling at No 6A, two other dwellings (13a and 13b Whitehorse Drive) and an office building occupied by a construction company (13 Whitehorse Drive). The driveway is a narrow, single width lane along its full length, except for one small, wider section where the entrances to Nos 13, 13a and 13b splay out on both sides and whether the otherwise straight alignment

angles slightly. The drive passes tightly between the dwellings at 11a and 15 Whitehorse Drive and over a pavement crossover to reach the carriageway.

5. The private drive is just 3.1 metres wide at its narrowest and little wider elsewhere apart from the entrance splays. The proximity of the side elevations of 11a and 15 Whitehorse Drive, and the boundary hedge and fence with Nos 13 and 13a also restrict the possibility of widening the access. The width exceeds the minimum road width of 3 metres set out in the Surrey Design Guide, but it would fall short of the recommended 4.1 metre width where the driveway would regularly provide pedestrian access.
6. The appellant has presented evidence relating to existing and predicted trip generation along the drive. Initial figures, based on TRICS data, refer only to the predicted traffic generated by a net additional five dwellings (21 additional two-way vehicular movements).¹ Later evidence presents an overall level of traffic from the combined 8 dwellings and potential office use of 52 daily two-way vehicular movements.² This was followed by a traffic count in November 2023 showing a lower figure of 22 daily two-way movements and predicting a lower total of 38 two way vehicular movements post-development.³
7. At final comments stage, the appellant has sought to introduce further evidence in the form of traffic counts undertaken in February 2024 for a subsequent application for 5 dwellings.⁴ Given the timing of this submission, the Council, local highway authority and interested parties have not had the opportunity to comment on this additional evidence in the context of this appeal. The further transport addendum (March 2024) also relates to a different quantum of proposed development. Therefore, while I acknowledge the fact that this later application did not generate objection from the local highway authority and was recommended for approval by officers, even if ultimately refused permission, I have limited my consideration of this evidence to the appellant's revised prediction in their final comments of 28 total two-way vehicular movements.
8. The overall conclusion advanced by the appellant's evidence is that the proposed dwellings, in combination with the existing dwellings and office use, would generate a low cumulative level of traffic and that this would fall within the acceptable range of 24-36 daily movements for six dwellings that are typically considered appropriate to share a private drive, based on each dwelling having 4 to 6 movements per day. Pedestrian activity is also predicted to be low.
9. However, in this case there would be a proposed total of eight dwellings plus a commercial use that has a real possibility of intensifying its operations and adding further vehicular movements, given it has planning permission⁵ to extend the building, with the officer report for that application anticipating an increase of three vehicles over and above the six indicated to regularly access the site. As such, the overall number of properties would exceed the generally acceptable range for a private drive, and would include a commercial use, creating a different practical scenario to a standard private drive.

¹ Transport Statement (May 2023), Para 3.2.3

² Transport Statement Addendum (August 2023), Table 1

³ Transport Note (December 2023), Figure 1 and Para 2.19

⁴ Council Ref 24/00107/FUL

⁵ Council Ref 23/00179/FUL

10. An increase in dwellings and vehicle movements would, in simple terms, increase the chance of two vehicles meeting as one enters the driveway from Whitehorse Drive and the other leaves one of the properties. The only passing point is at the splays to Nos 13 and 13a/13b, a distance of some 55 metres from the entrance on Whitehorse Drive. I saw on site that there would be space for two vehicles to pass each other at this point.
11. However, a vehicle entering from Whitehorse Drive would have to commence turning in across the pavement in order to see sufficiently along the driveway to ascertain any oncoming vehicle, due to the presence of solid fences on both sides. Where a driver turns in too far, and encounters an oncoming vehicle, it would require a reversing manoeuvre back across the pavement and onto the carriageway to allow the oncoming vehicle to emerge, a manoeuvre made riskier by the presence of the solid fences that would restrict drivers' views. It is also likely that many drivers would elect to keep their vehicles partially on the pavement while waiting. This is far from ideal, particularly given the extent to which the pavement is used by parents and schoolchildren walking to and from the adjacent schools.
12. I saw that traffic on Whitehorse Drive was reasonably light at the time of my visit, but I recognise that this was outside the school drop-off/pick-up times and traffic will be greater at these times, which would also coincide with residents and employees of the commercial premises coming and going to work. Therefore, whilst the predicted volumes of traffic may not be high, the risk of conflict would increase during peak times, both along the access road itself and particularly on Whitehorse Drive, where vehicles waiting to turn into the private drive would block traffic and may prompt unsafe manoeuvres by other vehicles seeking to pass. I note the accounts from local residents regarding the volume of traffic on Whitehorse Drive during pick-up/drop-off times and the tendency for traffic to back up from the junction with Dorking Road. The potential for hazardous reversing manoeuvres onto Whitehorse Drive at such times would exacerbate already difficult traffic conditions.
13. Importantly, the private drive would fail to meet the required specifications for a shared surface where pedestrians are regularly present. I have noted the evidence before me regarding desired walking routes for occupants to reach bus stops and other facilities. I consider it likely that both the Bucknills Close and Whitehorse Drive exits would be used by residents at different times. However, the narrowness of the route to Whitehorse Drive is not desirable in terms of ensuring pedestrian comfort and safety, with evidence from an interested party showing insufficient space for pedestrians to pass, or even step in, when a vehicle is on the lane. Although the evidence points to low numbers of pedestrians being expected to use the lane daily, the proposal would include the provision of five dwellings suitable for family occupation. With the proximity of both a primary and secondary school, it is to be expected that parents and children would regularly travel on foot along the private drive. This would also occur at times in the morning and afternoon when drivers are more likely to be coming and going from other dwellings and the commercial use, adding to the risk factor.
14. I accept that low pedestrian and vehicle numbers set out in the appellant's evidence means that conflict between users of the access road may not be a daily occurrence. I also recognise that the narrow width of the access can act as a restrictor of driver speed and those walking along the access, in most

cases occupants of the dwellings, would be aware of the potential presence of vehicles. However, the proposal would result in more dwellings than are generally considered appropriate for a private drive, plus a commercial use that itself is generating traffic similar to several dwellings, and could generate more in future. Such a level of traffic may be manageable where excellent road conditions exist. Here, they do not. Moreover, additional dwellings would lead to further traffic in the form of deliveries and visitors who would not be familiar with the particular constraints of the access and may involve larger vehicles, access by which along the lane may be technically achievable, but which would further intensify use of an already substandard access and add to the risk for pedestrians in particular.

15. In reaching a view, I have noted the development nearby at 46 Woodcote Green for 5 dwellings accessed from a private drive. Although there are some similarities, there are also differences in that there are fewer dwellings overall, the drive is not also used by a commercial use and it is not adjacent to a school. Similar differences exist in respect of the appeal scheme at Brockham⁶ referred to me. These aside, access and highway safety are matters which inherently require a site-specific assessment, and whether or not another access has been found to be acceptable does not alter the conclusions I have reached based on the specific site circumstances of the proposal.
16. For these reasons, I am not satisfied that the access to Whitehorse Drive could operate safely for both drivers and pedestrians with the proposed development in place. Therefore, I conclude that the proposal would fail to provide safe access for existing and future users and would have an unacceptable effect on highway safety.
17. This results in conflict with Policies CS16 of the Core Strategy 2007 (the CS), Policies, DM16, DM36 and DM37 of the Development Management Policies Document (September 2015) (the DMPD). Together, these policies require development to provide safe, convenient and attractive accesses for all; to prioritise the access needs of pedestrians and cyclists in the design of new developments; and to avoid unnecessarily long access roads to backland development. The Council also refers to conflict with Objective 3 of the Surrey Transport Plan (LTP4) 2022-2032, but this has not been provided in evidence.

Car Parking

18. A total of 12 spaces are proposed to serve the six dwellings, one space allocated to each and six communal spaces for residents and visitors. This falls two spaces short of the requirement of 14 set out in the Council's Parking Standards for Residential Development SPD 2015, based on the number of bedrooms provided in each dwelling.
19. It is common ground that the site is in a sustainable location with access to public transport and Epsom town centre on foot or cycle. However, the site is still some 950m beyond the town centre, which is not 'adjacent' in my view, and I am not persuaded by the appellant's argument that the scheme should be compared to the lower town centre parking threshold.
20. This aside, the appellant has submitted evidence of car ownership, based on census data, showing that some 65% of residents locally do not own a vehicle

⁶ Appeal Ref: APP/C3620/W/21/3281963

and an overall rate of ownership of 1.21 cars per dwelling. Applying this ratio of car ownership, the appellant estimates a total demand for 10 to 11 vehicles, which would be accommodated by the proposal. The appellant also points to recent guidance from Surrey County Council⁷ requiring two spaces per household in all locations, which the proposal would meet.

21. In response to the Council's further concern that the shortfall in off-street parking would increase on-street parking pressure in the immediate area, the appellant has undertaken overnight parking surveys showing an overall parking stress of 44%, with Whitehorse Drive being at 58% capacity. The Council accepts that these surveys were undertaken in accordance with the widely used Lambeth methodology that assesses overnight demand, this being the period of generally highest parking stress. Nonetheless, the Council contends that the appellant has failed to consider daytime parking demand from school traffic and those using the nearby hospital, concerns echoed in representations from local residents.
22. I saw that Whitehorse Drive was heavily parked at the time of my visit, and that it is one of the few streets in the immediate vicinity not subject to permit parking for residents only. However, I saw those other streets to have ample parking available during the day for residents. This is consistent with the assumptions of the Lambeth methodology, whereby demand falls during the day as people travel to work and school. I do not doubt that there is daytime parking pressure on Whitehorse Drive from those visiting the school or the hospital, but that appears to be a consequence of the street not being subject to permit parking, as there is not a similar level of demand on other streets. Overall, I did not observe the site surroundings to be so heavily parked as to suggest a worse daytime situation compared to that observed overnight by the appellant's survey and I am satisfied that the appellant's evidence is robust in demonstrating parking demand in the area.
23. Taking these considerations together, the appellant's evidence of car ownership levels in the area indicates that, despite the shortfall of two off-street spaces, the proposal is likely to provide sufficient parking for the expected number of vehicles. The sustainable location of the appeal site gives me confidence that demand for parking would not be significantly greater than the average for the area, and parking demand would not be expected to regularly spill onto adjacent streets. Any excess demand, were it to occur, would likely amount to one or two vehicles on an ad hoc basis. The evidence before me indicates sufficient parking availability in the surrounding streets, within which residents of the development would be entitled to park should they obtain permits. Therefore, any residual on-street parking demand from the development could be absorbed by existing on-street parking capacity. I also note initial plans to seek a traffic regulation order to extend double yellow lines opposite the private drive entrance, which would have reduced on-street parking capacity, are no longer being pursued.
24. For these reasons, therefore, I consider that the proposal would provide a sufficient level of parking and would not lead to harmful levels of parking pressure that would inconvenience other residents, pose a risk to highway safety or the safe operation of the highway network. As such, I find no conflict with Policies DM16 or Policy DM37 of the DMPD in terms of their requirements

⁷ 'Vehicular, electric vehicle and cycle parking guidance for new developments' (November 2021)

that car parking in developments must not have an adverse impact on neighbours and must meet relevant parking standards unless it is robustly demonstrated that the level of on-site parking associated with the proposal would have no harmful impact on the surrounding area in terms of street scene or the availability of on-street parking.

Landscaping

25. The Council's concern is that the layout of the development prevents meaningful replenishment of the soft landscaping which formerly characterised the appeal site before recent clearance works that removed a significant number of trees and other vegetation. It is evident from photography provided in evidence that a substantial band of mature trees ran along the northern/western boundary of the site that has been mostly removed, with only trees standing in adjacent properties remaining. Whilst such loss of mature trees is regrettable, there is nothing in evidence to suggest these trees were subject to statutory protection in planning terms that would have prevented their removal without prior authorisation from the Council.
26. A number of amendments have been made to the landscaping proposals to address concerns over the number of trees, but also their position and prospects for growth and longevity due to their planting conditions and proximity to some of the dwellings. Further planting has also been proposed to replace existing trees either removed or cut back in the adjacent school grounds in summer 2023.
27. The parties have given differing assessments regarding the health of the band of trees removed on the northern/western boundary. However, photographs show the trees had reached considerable height and density owing to a prolonged period of lack of maintenance. Whilst these trees clearly contributed to the verdancy of the area, they appeared to have reached an unwieldy cumulative size that exceeded the scale of foliage in surrounding properties.
28. The proposal seeks a density of development in line with policy expectations that would inevitably lead to a greater extent of built form on site. The policies referred to me by the Council do not seek like-for-like replacement of trees, and in situations where more efficient use of land is being pursued, such a requirement would be impractical to achieve. I recognise that Policy DM5 stresses the need to justify removal of trees, but it must separately be acknowledged that the tree works in this case occurred prior to the planning application and have not breached planning control, so far as I am aware. As such, this is not a factor weighing inherently against the proposal.
29. Rather, the assessment to be made is whether the proposal would maintain local character, amenity space, green infrastructure and biodiversity. Landscaping would include new tree planting to rear gardens and at the entrance to the communal parking/turning area. Although the Council raises concerns with the long-term prospects of the trees in terms of growing space and proximity to dwellings, I am satisfied that the layout provides sufficient separation from the dwellings, and that regular tree maintenance would prevent trees reaching sizes that would create issues for occupants in terms of overshadowing. The positioning of the trees towards the perimeter would also create an impression of greenery in views from areas beyond the site.

30. Concern is raised over the method of planting of trees and whether this would ensure their long term health. While noting the appellant's further information details proposed tree pits, it is not a matter where common ground has been reached. However, given the site would be fully redeveloped, I am content that a suitably worded planning condition would ensure satisfactory conditions are created for the planting of trees and to ensure their long-term health.
31. With regard to the extent of hardstanding, I am satisfied that this is no more than necessary to achieve suitable access, turning and parking space, and would be softened by border planting in front of the dwellings. This space would be subject to limited views from outside of the site, and the Council acknowledges that the design and layout of the scheme is not uncharacteristic of other backland development in the area.
32. For these reasons, I conclude that the proposal would provide an acceptable landscaping scheme that would contribute positively to the existing character and appearance of the area, in accordance with the requirements of Policies DM5, DM9 and DM16 of the DMPD.

Other Matters

33. The Council has not opposed the proposal in other respects. I have noted the conclusions reached in respect of the demolition of the existing dwelling; the principle of backland development; housing density and mix; the standard of accommodation to be provided both internally and externally; design; effects on heritage assets; neighbours' living conditions; waste and recycling; flood risk; biodiversity and ecology; land contamination and sustainability. I have also had regard to representations made by interested parties in these and other matters. Having done so, I have not identified any additional material benefits or harms to be weighed in the planning balance.

Planning Balance

34. On the main issues of the appeal, I have found no conflict with the aims of the development plan in terms of parking provision or landscaping. However, I have found that the proposal would fail to provide safe and secure access for existing and future residents. This results in conflict with development plan policies that are consistent with the Framework's position that development should ensure safe and suitable access to the site can be achieved for all users and should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. As such, I afford significant weight to this conflict.
35. The Council accepts that it is unable to demonstrate a five year supply of deliverable housing sites. A figure is not given by the Council, but the appellant states the latest position is just 1.59 years' supply. Therefore, pursuant to paragraph 11(d) of the Framework, the presumption in favour of sustainable development is engaged.
36. The proposal would deliver benefits in terms of delivery of a net gain of five dwellings in an accessible location at a time when the Council is falling significantly short of demonstrating a sufficient supply of deliverable housing sites. This would align with the key aim of the Framework of boosting the supply of housing nationally, an aim given further importance and impetus in the recent WMS. Whilst the scale of the development means the contribution

would be small, it is a benefit weighing considerably in favour of the proposal in these circumstances. There would also be minor benefits in terms of the economic activity generated in the construction of the dwellings and subsequently by occupants in patronising local businesses.

37. The benefits of the proposal, taken together, are considerable. However, in providing new housing, the development would perpetuate increased risk to the safety of drivers and pedestrians. In the context of paragraph 11(d)(ii), therefore, I find that the adverse impacts on highway and pedestrian safety would significantly and demonstrably outweigh the benefits in this case.
38. Overall, the proposal would not represent a sustainable form of development and, in the final balance, the material considerations in this case, including the Framework, do not indicate that permission should be forthcoming in spite of the identified conflict with the development plan.

Conclusion

39. For the reasons set out, the appeal should be dismissed.

K. Savage

INSPECTOR