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## Appeal Decision

Site visit made on 29 November 2021

by **J E Jolly BA (Hons) MA MSc MCIH MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> December 2021

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**Appeal Ref: APP/Y3615/W/21/3276229**

**Land at Church Street, Effingham, Leatherhead KT24 5NA**

- 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 Mr Richard Barter (Millgate Developments Ltd) against the decision of Guildford Borough Council.
  - The application Ref 19/P/01726, 5 August 2020, was refused by notice dated 18 February 2021.
  - The development proposed is for the erection of 17 No dwellings plus access, parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have noted and considered the Parish Council's request for a public hearing. However, I am satisfied all the information required and necessary to determine the appeal is before me in writing.
3. For the avoidance of doubt, I have used the description of development and postcode used on the appellant's appeal form.
4. The Council's reasons for refusal includes a reference to 'SANG and SAMM' tariffs in relation to the Thames Basin Heaths Special Protection Area Zone. However, the Council has confirmed that this reference was added in error. This is noted and I have proceeded accordingly.
5. The Government published a revised *National Planning Policy Framework* (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.

### Main Issues

6. The main issues are:
  - whether the proposal would preserve or enhance the character or appearance of the Effingham Conservation Area and the setting of the surrounding listed buildings,
  - housing mix, and;
  - planning obligations.

## Reasons

### *Character and appearance, including effects on heritage assets*

#### *a) Conservation Area*

7. The appeal site is located within the Effingham Conservation Area (CA) and is a grass covered field that is accessed via rising turning head on the eastern side of Church Street near to the junction with Lower Road. The site is lined by hedging and trees and slopes up to meet with the walled graveyard attached to the Grade II\* listed St Lawrence's Church (the Church) and is bounded on the other sides by loose-knit residential development, including the Grade II listed building known as 'The Lodge'.
8. The proposal would see the erection of 17 dwellings comprising 12 houses and 5 flats, with gardens, landscaping and parking that would be constructed in traditional style materials. There would be a new access that would lead onto a service road, and an extension to the Church graveyard would be formed to the south-west corner of the appeal site.
9. Policy ENP-SA1 of the adopted Effingham Neighbourhood Plan 2018 (NP) recognises that some form of development and change would occur at this location although limits the site to the small scale development of 9 dwellings. However, the more recent policies contained within the later Guildford Borough Local Plan: strategy and sites 2019 (GLP 2019) has resulted in the site having been removed from the Green Belt. The appellants argue that the effect of such removal means that the previous limitation of the number of units set out in the NP should no longer apply. Although policies in a later Development Plan would ordinarily prevail, in this instance, I am cognizant of the location of the site within the designated CA and have undertaken my assessment with the CA's characteristics and significance in mind.
10. The character of Church Street is typified in this specific location by rows of modest one and two-storey dwellings that are strung along the unlit highway as it runs towards the junction with Lower Road. The built environment includes the Grade II listed dwelling known as 'The Old Post Office' and the locally listed dwellings of 1 and 2 Church Cottages.
11. The special character and significance of the CA is derived from bespoke dwellings of different sizes and types with relatively simple elevations that are set next to the unlit highway on irregular plots which do not have a consistent built line or rhythm. The properties have proportionate garden spaces, some of which border the main highway at a right angle. Together the dwellings form an attractive traditional grouping within the CA, that is softened by some relatively 'open' spaces such as the appeal site and the nearby graveyard.
12. I acknowledge that the appellant has made a number of changes to the previous proposals for the appeal site, which in addition to the reduced number of dwellings, include a revised housing mix and layout and additional parking spaces.
13. However, the appeal scheme, by extending across the breadth and depth of the site, would in my view create a bulk and mass of built development that would be incongruous and out of kilter with the existing spatial arrangement of dwellings found in this part of the CA.

14. Furthermore, the proposed one and two-storey dwellings would be somewhat larger in form to the properties found along Church Street and would cluster around a mews type access road. In addition, the relatively uniform layout of the proposed development would include, gable-ends, garages, porches and a range of street-lighting that would be substantially at odds with the variable rhythm and fluctuating and unassuming built form on the nearby and unlit Church Street.
15. Moreover, while the submitted drawings show that 17 dwellings would be possible on the appeal site, the space around the proposed dwellings would be relatively tight and disproportionate to the overall scale of the building plots. Indeed, although the gardens separate the proposed dwellings from the appeal site boundary and the retained 'tree-belt', they would fail to provide spatial relief in an otherwise compressed urban type grain of what is proposed that also includes a number of side parking spaces and parking barns. The garden spaces to the front of the new dwellings and the addition of more 'open' space would not be adequate mitigation. Therefore, the proposal would contrast unacceptably with the proportionate garden plots of the dwellings seen along Church Street.
16. I noted that the appeal site is lined by trees and hedges. However, notwithstanding the addition of an extended burial ground, the proposal would be in close proximity to the Church and would erode the spaciousness provided by the appeal site. Therefore, it is likely that the scale and mass of development would be seen from the raised churchyard as a minimum at less leafy times of the year and detract from the prevailing character and appearance of the CA. Overall, I find that the proposal would fail to preserve or enhance the character and appearance of the CA.

*(b) Listed Buildings*

17. I acknowledge that a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve. Indeed, the appellant contends within the submitted 'CGMS Heritage' Built Heritage Statement, dated October 2109, that any changes to the setting of the nearby listed buildings would be shielded by trees and hedges. Moreover, I concur that 'The Old Post Office' and the dwellings of 1 and 2 Church Cottages are mostly hidden or set down from the appeal site, and that 'The Lodge' to the other side of the appeal site cannot be seen from the historic core of the village.
18. However, I noticed at my site visit, that as a consequence of its elevated position, the Church and its graveyard, which also has a number of listed vaults, would look directly onto the appeal site where the trees and hedges are sparser. The Church has considerable medieval and architectural qualities and is an important village landmark that is appreciated not only from Church Road and the historic core of the village, but also from within the graveyard and church grounds.
19. As such, the significance and setting of the Church would be eroded by the close and immediate proximity of the proposed development that would be seen through the hedged boundary particularly during the winter. In addition, while not determinative, I note the concerns of interested parties that the quiet tranquillity of the walled graveyard would be likely to be disturbed by the domestic type activities associated with a 17-dwelling residential development.

20. Accordingly, the proposal would result in unacceptable harm to the CA as a designated heritage asset and the significance and setting of the nearby listed buildings.
21. Consequently, the proposal does not meet the aims of Policies ENP-SA1 and ENP-G2 of the NP, Policies D1 and D3 of the GLP 2019, and Policies, G5, HE4, HE6, HE7 and HE10 of the saved Guildford Borough Local Plan 2003 (GLP 2003) which say, amongst other things, that new development should preserve or enhance the character or appearance of the conservation area, and that planning permission will not be granted for development that adversely affects the setting of a listed building by virtue of design, proximity or impact on significant views, and the relevant parts of Chapters 12 and 16 of the Framework.

### **Heritage balance**

22. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which is supported by the national *Planning Policy Guidance (PPG)*, requires the decision maker to have special attention to the desirability of preserving or enhancing the character and appearance of designated conservation areas within which development may occur. The same Act also requires that special regard should be paid when assessing proposals for development that affect listed buildings and their setting. Moreover, Paragraph 199 of the Framework states that great weight should be given to an asset's conservation, and that this is irrespective of whether harm is substantial or less than substantial.
23. I have found that the proposed development would fail to preserve or enhance the character and appearance of the CA. It would also have a harmful effect on the significance and setting of the nearby listed Church. In accordance with Paragraph 202 of the Framework, I am required to assess the extent of such harm. In the context of both the CA and listed buildings, I find that the harm would be less than substantial, although I would agree with the Council that this would be in the upper end of such harms. These are to be balanced against the public benefits arising from the proposal and I will return to this later in my decision.

### *Housing mix*

24. The proposed development would have a mix of one, two, three and four-bedroomed homes with a 40% provision for affordable homes. This meets the NP requirement for the inclusion of one-bedroomed homes and also the Council's *Strategic Housing Market Assessment (SHMA)* for tenure mix within new developments.
25. However, notwithstanding non-compliance with nationally prescribed space standards, I note the Council's concerns that some of the 2-bedroom homes have a study that could be used as a third bedroom, and hence represent a larger type dwelling. Indeed, while a degree of flexibility is provided for within the SHMA, I have limited evidence before me such as a viability appraisal to justify a departure from adopted Council policies, particularly as larger homes have been provided on schemes nearby.

26. Moreover, notwithstanding the relative scale of the proposed development, where a departure from policy has been acceptable to the Council<sup>1</sup> it has been supported by a professional viability appraisal.
27. I conclude therefore, that the proposal is contrary to ENP-H2 of the NP and Policy H1 of the GLP 2019, which says that new residential development is required to deliver a wide choice of homes to meet a range of accommodation needs as set out in the latest SHMA. New development should provide a mix of housing tenures, types and sizes appropriate to the site size, characteristics and location, and the Framework when read as a whole.

#### *Planning obligations*

28. The appellant has submitted a signed S106 agreement in respect of the proposal which includes contributions towards; affordable housing, education, the provision of a burial ground and a children's play-space.
29. There is no conflict between the parties in relation to the obligations and I have no reason to disagree with their respective opinions that they would comply with the NP and Policies ID1 and ID3 of the GLP 2019, which say that the delivery of necessary infrastructure will be secured by planning condition and/or planning obligation, as supported by the Guildford Borough Planning Contributions Supplementary Planning Document 2017, and the policy test set out in the Framework and the statutory test in the Community Infrastructure Levy ('CIL') Regulations 2010 (as amended).

#### **Planning balance**

30. Having found that the development would result in 'less than substantial harm' to heritage assets, according to various Court decisions, this does not equate to a 'less than substantial planning objection'. The PPG requires that whether a proposal causes 'less than substantial harm', this will be a judgement for the decisionmaker, having regard to the circumstances of the case.
31. The proposal would provide 17 new homes on a smaller type site including a percentage of affordable homes, thereby contributing to the Council's Housing Land Supply (HLS) which are likely to be delivered in a relatively short period of time. However, and in the planning balance, given that the Council can demonstrate a 5-year HLS, I attribute this limited weight.
32. There would be a burial ground extension, a new pedestrian link, landscaping, biodiversity and environmental benefits such as wild-flower planting, the provision of open space and cycle parking. Some of these are the Council's policy requirements. Therefore, I attribute these limited weight.
33. Economic benefits would include employment opportunities connected to the construction of new homes and the patronage of local services by local residents. I afford these benefits moderate weight even though the employment opportunities are likely to be short-term.
34. In accordance with the balancing exercise contained in Paragraph 202 of the Framework, I conclude, even when considered in combination, that the benefits do not outweigh the 'less than substantial harm' to the CA or the significance and setting of the listed buildings.

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<sup>1</sup> (14/P/02109)

## **Conclusions**

35. Whilst I have found in favour of the appellant on the third main issue, this does not justify the harm identified in the first and second main issues. The proposed development would conflict with the adopted development plan in these respects and there are no material considerations indicating a decision otherwise than in accordance with it.
36. For the reasons given above I conclude that the appeal should be dismissed.

*J E JOLLY*

INSPECTOR