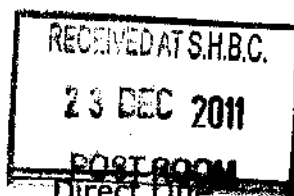




The Planning
Inspectorate



file

11/1074

Quality Assurance Unit
Temple Quay House
2 The Square
Bristol, BS1 6PN

Direct Line:
Customer Services:

0117 372 8252
0117 372 6372

The Principal Planning Officer
Surrey Heath Borough Council
Built Environment (Development
Control)
Surrey Heath House, Knoll Road
Camberley
Surrey
GU15 3HD

Your Ref:

Our Ref:

Date:

APP/D3640/A/11/2155932/NWF

21 December 2011

Dear Principal Planning Officer

Town and Country Planning Act 1990

Appeal by Mr & Mrs Jeal

Site at 89 - 91 Guildford Road, Lightwater, GU18 5SB

I enclose a copy of our Inspector's decision on the above appeal together with a copy of the decision on an application for an award of costs.

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback. This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

You should also note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly. Please contact the Administrative Court for further information.

Yours sincerely



Sophie Woodruff

COVERDL2

You can use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is -

<http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>

You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button



Appeal Decision

Site visit made on 23 November 2011

by **J M Trask BSc(Hons) CEng MICE**

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

Decision date: 21 December 2011

Appeal Ref: APP/D3640/A/11/2155932

89-91 Guildford Road, Lightwater, Surrey GU18 5SB

- 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 & Mrs Jeal against the decision of Surrey Heath Borough Council.
 - The application Ref 11/0104, dated 16 March 2011, was refused by notice dated 9 June 2011.
 - The development proposed is the erection of a replacement two storey building comprising A1 retail unit at ground floor and 2 No flats above with ancillary car parking for 8 No vehicles (including 1 No disabled space) and 4 No bicycles.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Following the application, drawings were submitted showing a total of seven car parking spaces and the Council considered the application on this basis. The scale and title of the part of the drawing showing the parking layout is clearly incorrect and I discuss the effect of this later in the decision. The description has also been amended at a late stage to "erection of a two storey building comprising of A1 (retail) to the ground floor and 2 one bedroom flats above following demolition of existing building". I do not consider the interests of any party would be prejudiced by these changes and I have considered the appeal on the basis of the modified proposal and description.

Main Issues

4. The main issues in this appeal are the effects of the proposal on highway safety and on the living conditions of neighbouring residents and whether there would be adequate parking provision.

Reasons

5. The appeal site is located within the commercial centre of Lightwater and is on the south side of Guildford Road, opposite the junction with All Saints Road. The buildings on the site are mostly single storey, in use as a hardware store, with some first floor accommodation in use as flats.

Highway Safety

6. Guildford Road is the main vehicle route through Lightwater and is a busy road. The site is on a slight bend in the road and visibility to the north is obstructed by a hedge on the adjacent property so that the visibility distance would be about one third of that preferred for a road with a 30mph speed limit. It would also be significantly below the recommended minimum. While *Manual for Streets* accepts that shortened visibility splays do not inherently lead to safety issues, the site specific circumstances of this case need to be considered.
7. There is an existing traffic calming feature opposite the site and there are proposals in association with the adjacent development to remove this and install a speed table and kerb build outs. These proposals are likely to be carried out and would reduce traffic speed and improve visibility. Discrepancies and inaccuracies on drawings, including those described above, make it unwise to rely on an assessment of visibility based solely on the drawings. At my site visit some check measurements were taken and, having taken account of these and that the appellants accept the improvements would only increase the length of the visibility splay by 10m, I do not consider that it has been demonstrated that satisfactory sight lines could be achieved.
8. The existing parking layout means most vehicles need to leave the site in reverse gear while the proposed layout would allow vehicles to leave the site in forward gear. This would be an improvement over the fallback position and, on this basis, the Highway Authority raised no objection. In addition the appellants' Transport Assessment concludes that traffic attractions would be less than could potentially exist at the moment and that there have been no recorded accidents in more than five years. Nevertheless, the restricted visibility would be an unnecessary hazard in this busy area and constitutes an avoidable and unacceptable risk to highway users.
9. The appellants have advised that it is likely that there would be between three and five deliveries a day to the retail unit with only three made by larger vehicles. While delivery vehicles could be accommodated within the proposed parking area and it is possible that they could turn and leave the site in forward gear this would substantially reduce the number of parking spaces available. The appellants have suggested the imposition of a condition requiring a Servicing Management Plan to deal with car parking and servicing management but I have seen little detail to demonstrate that this could be satisfactorily achieved. I conclude that it is likely that occasional conflict in use would result in some vehicles parking on the highway or leaving the site in reverse gear. This adds to my concerns in respect of highway safety.
10. Thus the proposal would be detrimental to highway safety and conflicts with Policy M8 of the Surrey Heath Local Plan which requires new development to have regard to highway design standards, the Lightwater Village Design Statement Supplementary Planning Document (SPD) which requires that development proposals should have regard to highway safety and PPG13 which seeks to secure road safety.

Living Conditions of Neighbouring Residents

11. There is a residential development under construction on the adjacent site to the north, existing dwellings behind and to the south of the existing building and other residences above the shops to the south as well as to the west of the

site. There would also be residential units on the first floor of the development. The proposed opening times would be 0700 to 2300 each day and there would be up to five deliveries each day as well as the noise generated by customers, particularly when parking when the sound of car engines starting, doors closing and vehicles manoeuvring would be evident. The operation of the shop would result in noise and disturbance and light pollution that would be detrimental to the living conditions of nearby residents, particularly on Sundays, late in the evening and early in the morning.

12. The existing shop has permission for extended opening hours and has a larger floor area than that proposed and, while the current users have not made use of this possibility, the existing store could potentially attract more customers. However, the proposed development would be likely to attract a wider range of retail uses than would be possible with the existing building and the intensity of use of the proposed retail unit may well be higher than would be possible with the existing shop. While this is a finely balanced judgement, it is my view that the proposal would detract from the living conditions of neighbouring residents. However, a restriction on operating times would overcome that concern and the conflict with the SPD and national guidance and thus this is not a reason to dismiss this appeal.

Parking

13. The development would include seven off street parking spaces which the appellants have confirmed would be for the use of the retail area. The Surrey County Council's draft car parking standards advise a minimum provision of one space per residential unit in a village location but accept lower provision may be considered if an enforceable Travel Plan constraining vehicle trips were in place. National advice in PPG13 is that local authorities should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls and this carries more weight than the draft standards which may be altered before adoption. The site is close to the village centre and, despite the conflict with the draft standards and that the provision of no car parking spaces would be less than the two requested by the Council; it would be acceptable and accord more closely with the need to reduce reliance on the private car in new developments.
14. The draft car parking standard recommends a maximum of 14 spaces for the retail unit. There is a high demand for parking in the immediate area although there is ample on street parking space available within a short walking distance. The Lightwater Village Design Statement Supplementary Planning Document expresses concern about car parking provision for shoppers in the village centre. I appreciate customers would generally prefer to park close to the shop and seven car parking spaces may well be insufficient, leading to some on street parking. However, any implications for road safety arising from on-street parking could be resolved through the introduction or enforcement of on-street parking controls. Also, the availability of parking spaces slightly further afield and the advice in PPG13 support a conclusion that sufficient car parking spaces would be provided.

Other Matters

15. Other matters have been raised and there have been a large number of objections to the scheme. The identity of the end user of the development is a material planning consideration of little weight and in the light of my decision; there is no requirement for me to consider this and other lesser matters raised. They carry little weight and do not alter my conclusion on the main issues.
16. Although I have concluded that subject to conditions the scheme would not materially affect the living conditions of neighbouring residents and would provide adequate parking, I consider that on balance my conclusion on the effect on highway safety warrants dismissal of this appeal. For the reasons given above I conclude that the appeal should be dismissed.

J M Trask

INSPECTOR



Costs Decision

Site visit made on 23 November 2011

by **J M Trask BSc(Hons) CEng MICE**

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

Decision date: 21 December 2011

Costs application in relation to Appeal Ref: APP/D3640/A/11/2155932 89-91 Guildford Road, Lightwater, Surrey GU18 5SB

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr & Mrs Jeal for a partial award of costs against Surrey Heath Borough Council.
 - The appeal was against the refusal of planning permission for the erection of a replacement two storey building comprising A1 retail unit at ground floor and 2 No flats above with ancillary car parking for 8 No vehicles (including 1 No disabled space) and 4 No bicycles.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application refers to the second part of the Council's reason for refusing planning permission which was that the proposed development would increase the noise, disturbance and light pollution to local residential properties to the detriment of residential amenities.
4. Council officers recommended approval but Paragraph B20 of the Circular states that planning authorities are not bound to accept the recommendations of their officers provided that they can show reasonable planning grounds for doing so, supported by relevant evidence on appeal. The Council's Statement addresses the comparisons between the permitted use, current use and the proposed use associated with a more functional, albeit smaller, development. It reaches the conclusion that, despite the comparison in terms of floor area, there would be likely to be an increased intensity of use and extended opening times leading to an adverse effect on neighbours' living conditions. Thus I consider that the Council's Statement shows reasonable planning grounds for taking a decision contrary to the advice of their officers and represents relevant evidence on appeal which supports the decision in all respects and substantiates the reason for refusal in accord with Paragraphs B16 and B20 of the Circular.

5. There was a large amount of local opposition to the proposal but I have seen no conclusive evidence that this unduly influenced the Council's decision. As outlined above, the Council made an objective appraisal in accord with Paragraph B21 of the Circular and substantiated its objection as required by Paragraph B22.
6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense as described in Circular 03/2009 has not been demonstrated and conclude that an award of costs is not justified.

J M Trask

INSPECTOR