



# The Planning Inspectorate

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

Your Ref: 12/0626  
Our Ref: APP/D3640/A/13/2190858  
Date: 2 July 2013

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Dear Principal Planning Officer

## **Town and Country Planning Act 1990**

### **Appeal by Mr K Jeal**

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

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or feedback about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at <http://www.planningportal.gov.uk/planninginspectoratefeedback>.

If you do not have internet access please write to the Quality Assurance Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

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.

Yours sincerely

Erin Lindell

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*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/caserearch.asp>*  
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## Appeal Decision

Site visit made on 20 May 2013

**by Jim Metcalf BSc DipTP MRTPI**

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

**Decision date: 2 July 2013**

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### **Appeal Ref: APP/D3640/A/13/2190858**

### **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 12/0626, dated 18 September 2012, was refused by notice dated 3 December 2012.
  - The development proposed is the erection of a replacement two storey building comprising A1 retail unit at ground floor and 2no. flats above with ancillary car parking for 9no. vehicles (including 1no. disabled space) and 4no. bicycles.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the erection of a replacement two storey building comprising A1 retail unit at ground floor and 2no. flats above with ancillary car parking for 9no. vehicles (including 1no. disabled space) and 4no. bicycles at 89-91 Guildford Road, Lightwater, Surrey, GU18 5SB in accordance with the terms of the application, Ref 12/0626, dated 18 September 2012, subject to the conditions in the attached schedule

### **Main Issue**

2. The main issue is the effect of the development on highway safety.

### **Reasons**

3. Nos 89-91 Guildford Road, a hardware store, fronts the main road in the centre of Lightwater. The upper floor is in use as flats. An application for a replacement retail store, with two flats above, was refused planning permission in 2011. In dismissing a subsequent appeal (*APP/D3640/A/11/2155932*) the Inspector found that although the development would not materially affect the living conditions of neighbours and would have adequate parking his concern about an adverse effect on highway safety justified dismissing the appeal.
  4. Guildford Road is the main road through Lightwater and the site is on a bend, opposite the junction with All Saints Road. The existing store sits relatively close to the road with a pavement crossing extending across the site serving a car park. The parking spaces are at right angles to the road and vehicles that park there are generally driven into the spaces and reversed out into the road
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to leave. There is little or no space for service vehicles to park off the road when visiting the store.

5. Since the 2011 appeal decision a number of things have changed. Firstly, a Certificate of Lawfulness (CoL) has been issued (12/0343) for the proposed use of the ground floor of the premises as a retail store (Use Class A1) with associated car parking to the front of the premises and the use of the first floor as two residential flats (Use Class C3). The applicants for the CoL were Tesco Stores Ltd, future occupants of the store in the event that planning permission is granted. This constitutes a fall-back position that could be implemented as an alternative to the appeal proposal. I have no reason to believe it would not be. Secondly, the current appeal proposal differs from the previous one with additional space on the frontage designed to allow vehicles to enter and leave in forward gear. Thirdly, the appellants have submitted a draft plan for the management of the servicing of the store and explained how such arrangements work satisfactorily elsewhere.
6. Fourthly, road works have been carried out in connection with the redevelopment of Nos 93-95 Guildford Road. A speed table has replaced a footpath build out to regulate movement of vehicles. Moving the kerb-line forward has increased the sightline available to the north, from 17m to 25m. The previous Inspector noted that these works to the highway, if carried out, would likely reduce traffic speed and improve visibility.

#### *Highway safety*

7. The store would be set back into the site allowing a more effective car park to be formed, served by a 6.5m wide access at the centre of the frontage. Site lines available to drivers leaving the site from the new access would be 2.4m x 25m to the north and 2.4m x 23m to the south. The adequacy of the visibility to the north is a concern of the Council. The road is subject of a 30mph speed limit through the village. The standard visibility splay needed in such circumstances is 2.4m x 40m.
8. The appellants have carried out two manual speed surveys of traffic on Guildford Road. The 85<sup>th</sup> percentile speed of traffic southbound was 22mph and 22.2mph in 2012 and 2013 respectively. I am satisfied that the surveys, based on guidance in the *Design Manual for Roads and Bridges*, are reliable. With traffic travelling at less than 30mph, and based on guidance in the *Manual for Streets*, the minimum visibility splays needed for an access where traffic travels at the surveyed speed are 2.4m x 25m. This length of visibility splay would be available. Consequently I am satisfied that drivers leaving via the new access would have satisfactory visibility to the north as well as to the south.
9. The car park would have nine spaces laid out in two facing rows parallel to the road. This area would also be used by vehicles that service the store to park off-street whilst being unloaded. To do this effectively would need, amongst other things, vehicle manoeuvring space to be free, the use of relatively small delivery vehicles and fore-knowledge by store managers of their arrival. A draft Servicing Management Plan (SMP) has been submitted that sets down provisional arrangements to ensure that this would work satisfactorily.
10. The appellants submit that such plans are not uncommon as a basis for managing deliveries to Tesco stores. They have provided information of an

appeal decision in Leicester where an Inspector, (APP/W2465/A/11/2148659), imposed a condition that required the approval and implementation of such a plan. Leicester City Council has advised that the scheme has been implemented and works satisfactorily. In light of this evidence I am satisfied that the implementation of a SMP would be a practical and enforceable way of ensuring that vehicles servicing the store would avoid regular parking on the highway and thereby not threaten highway safety.

11. I find that, with the visibility splays available and deliveries managed in accordance with a SMP, and subject to conditions that ensure implementation of these features, the development would not significantly risk the safe and efficient flow of traffic movement on the highway. As such the development would comply with Policy DM11 of the Surrey Heath Core Strategy and Development Management Policies Document 2012 (CSDMP) and Principle H2 of the Lightwater Village Design Statement.
12. In coming to this conclusion I note that the County Highway Authority (CHA) did not object. I am also mindful that the new car park with a narrower, well defined access point and improved pavement would be an improvement, especially for pedestrians, when compared with the existing lengthy pavement crossing and somewhat haphazard parking. I have also taken into account the recently issued CoL which establishes that Tesco, or other similar operator, could use the existing buildings as a store, larger than that proposed and with the existing parking and servicing provision.

#### *Other matters*

13. There is considerable local opposition to the current proposal. However, of itself, local opposition, whatever the degree, cannot justify the refusal of planning permission. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
14. The previous Inspector found that although there were a large number of objections to development because of the identity of the end user of the store this was a material planning consideration of little weight. This remains the case. Residents have also raised concerns that are not cited in the Council's reason for refusal, such as the impact on existing businesses, the lack of parking, the effect on the living conditions of residents and the character of the area.
15. In considering these matters the previous Inspector found that the development would not materially affect the living conditions of neighbours, subject to a restriction on opening hours, and would have sufficient parking. I have no reason to disagree with the previous Inspector on these matters. Any impact on existing businesses or on the character of the area would likely be similar if the fall-back position, identified by the CoL, were implemented. I have taken these matters into account insofar as they are relevant to the appeal and the main issue set out above.

### *Conclusions*

16. Although similar in principle to the previous scheme, the size of the store has been reduced, there would be two additional car parking spaces and there is provision for service vehicles to turn on site. A CoL has been issued that forms a valid fall-back position with a likelihood that it would be taken up in the event that a redeveloped store could not be built. There have also been alterations to Guildford Road outside the site. I conclude that the access and servicing as proposed would not, subject to a number of conditions, significantly prejudice highway safety. The proposal would comply with CSDMP Policy DM11 and Principle H2 of the Lightwater Village Design Statement.

### *Conditions*

17. The Council have suggested that if planning permission is granted a number of conditions should be imposed. I have considered these in the context of Circular 11/95 *'The Use of Conditions in Planning Permissions'*. In the interests of proper planning and for the avoidance of doubt a condition is necessary to secure the implementation of the approved plans. A condition is also needed to ensure that the materials used to construct the development will be appropriate in the neighbourhood.
18. Conditions that require the submission for approval of a Servicing Management Plan, as discussed above, and the timely laying out of the new access and car park are needed in the interest of highway safety. These, and a condition to ensure that the condition of the road is not prejudiced during construction, were recommended by the CHA.
19. The previous Inspector found that a restriction on opening hours was needed to overcome concern about the effect on the living conditions of neighbours. I agree because, even though there are no restrictions on the opening times of the existing property, the replacement store would have a higher intensity of use. I have seen the appellants' evidence of the numbers of customers that use other comparable stores. In that context I consider that limiting the hours of opening to between 0700-2200, Monday – Saturday, and 0700-2100 on Sunday and Bank Holidays would be appropriate. To protect the living conditions of neighbours it is also necessary to limit the servicing of the store to hours similar to the normal working day and to minimise disturbance during the construction process.
20. It is also necessary, in light of CSDMP Policy CP2 that seeks to promote sustainable design, to ensure the development is built in a sustainable manner. It is not necessary to impose a condition that requires the obscure glazing of windows in the flats because, as the Council Officer's report explains, the development would not result in a material reduction in privacy enjoyed by adjoining residents. I have amended the Council's suggested wording for some of the conditions imposed in light of the advice in Circular 11/95.

*Jim Metcalf*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall not be carried out except in complete accordance with details shown on the following plans: (P)102/B; (P)103/G and (P)202/C.
3. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building, and the surface of the car park, hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. The retail unit hereby permitted shall not be open to customers outside the following times: 0700-2200 Monday-Saturday and 0700-2100 Sunday and Bank Holidays. No deliveries or servicing (aside from newspapers and magazines from single axle vehicles) shall be taken or despatched from the site outside the following times: 0800-1900 Monday-Saturday and 0800-1600 Sunday and Bank Holidays.
5. No development shall take place until a Servicing Management Plan (SMP) has been submitted to and approved in writing by the local planning authority. The SMP shall include measures to ensure the store will be serviced in a safe manner, including the maximum size of delivery vehicles, the identification of a parking and turning area for delivery vehicles, and measures to supervise the delivery of goods. The SMP shall be implemented and the servicing of the store thereafter managed in accordance with the approved details.
6. The retail unit hereby permitted shall not be first used until the access and car parking area has been laid out, drained and surfaced, and that area shall not thereafter be used for any purpose other than the circulation, parking and turning of vehicles. The visibility zones shall be kept permanently clear of any obstruction between 0.6m and 2.0m above ground level.
7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - the parking of vehicles of site personnel, operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials
  - the programme of works, including traffic management measures
  - the erection and maintenance of boundary hoardings
  - facilities for keeping the highway clean.
8. Demolition or construction works shall not take place outside 0800-1800 Mondays-Fridays and 0800-1300 Saturdays nor at any time on Sundays or Bank Holidays.
9. The development shall achieve a 'very good' BREEAM rating. The building shall not be first used until a BREEAM report/certificate has been issued and submitted to the local planning authority certifying that a 'very good' rating has been achieved.