

16th APRIL 2024 PLANNING COMMITTEE

6a PLAN/2024/0054

WARD: Heathlands

LOCATION: Gifford , Guildford Lane, Woking, Surrey, GU22 0AS

PROPOSAL: Section 73 application to vary Condition 2 (approved plans), Condition 7 (removal of 'permitted development' rights for gates and enclosures) and Condition 8 (landscaping) of planning permission PLAN/2019/0403 (Proposed construction of 2no. detached two storey dwellings (each with 5no. bedrooms) with accommodation within the roofspace with dormer windows following demolition of existing property, retention of existing access and associated hard surfacing) to allow for a new vehicular access and separate drive to Plot 1 and to allow the provision of gates for both vehicular accesses.

APPLICANT: Mr S Hussain

OFFICER: Josey Short

REASON FOR REFERRAL TO COMMITTEE

The application was called to the Committee by Cllr Rice if officers were minded to refuse as the reasons for the previous application on this site have substantially been addressed and that the proposed siting of the replacement tree(s) are such that any ultimate loss of amenity is minimal.

PROPOSED DEVELOPMENT

The Section 73 application seeks to vary Conditions 2, 7 and 8 of planning permission PLAN/2019/0403, which granted conditional planning consent (subject to a S106 agreement to secure SAMM payment) for Proposed construction of 2no. detached two storey dwellings (each with 5no. bedrooms) with accommodation within the roofspace with dormer windows following demolition of existing property, retention of existing access and associated hard surfacing.

Condition 2 of planning permission PLAN/2019/0403 states:-

"The development hereby permitted shall be carried out in accordance with the approved plans listed below:

Site Location Plan (L.301) received on 18.04.19

Block Plan (B.301) received on 18.04.19

Proposed Site Layout Plan (P.301 Rev A) received on 22.05.19

Plot 1 Plans and Elevations (P.302 Rev A) received on 22.05.19

Plot 2 Plans and Elevations (P.303) received on 18.04.19

Proposed Street Scene (P.304) received on 18.04.19

Tree Protection Plan PRI22104-03A received on 18.04.19

Topographical Survey received on 18.04.19

Reason: For the avoidance of doubt and in the interests of proper planning."

Condition 7 of planning permission PLAN/2019/0403 states:-

Notwithstanding the provisions of Article 3 and Schedule 2, Part 2 and Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any orders amending or re-enacting that Order with or without modification) no fences,

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gates or walls or other means of enclosures other than those expressly authorised by this permission shall be erected anywhere on the site/within the curtilage of any dwellinghouse without planning permission being first obtained from the Local Planning Authority in accordance with Policies CS7, CS21 and CS24 of the Woking Core Strategy 2012.

Reason: To preserve the character and appearance of the development and protect the existing trees and vegetation on the site.

Condition 8 of planning permission PLAN/2019/0403 states:-

No above ground development associated with the development hereby permitted shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority which specifies all existing trees and vegetation shown to be retained in accordance with the approved plans and species, planting sizes, spaces and numbers of trees/ shrubs and hedges to be planted. All landscaping shall be carried out in accordance with the approved scheme in the first planting season (November-March) following the occupation of the buildings or the completion of the development (in that phase) whichever is the sooner and maintained thereafter. Any retained or newly planted trees, shrubs or hedges which die, become seriously damaged or diseased or are removed or destroyed within a period of 5 years from the date of planting shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.

Reason: To preserve and enhance the character and appearance of the locality.

Condition 8 of planning permission PLAN/2019/0403 was discharged under conditions application COND/2020/0179 with landscaping plan L1 Landscape Proposals Plan dated 13.10.2020.

The application seeks to omit approved drawings P.301 rev A, and replace it with drawing nos. P401 and P402.

The proposed amendments would allow for a new vehicular access point to provide a separate drive to plot 1. The additional vehicular access point would be located to the south west corner of the site, close to the shared boundary with the south neighbouring dwelling 'Winton'. The works would also include landscaping within the site to provide a boundary to the front between plot 1 and plot 2 and access gates to the front of both plots 1 and 2.

The application follows the recent refusal of application PLAN/2023/0568. The current application, subject of this report, has made the following changes:-

- The addition of steel double gates to the front of each plot
- Repositioning of vehicular access to plot 1 centrally on the plot
- Increased width of vehicular access to plot 1 from 4.3 metres to 5.1 metres (increase of 0.8 metres)
- Change of shape and positioning of hardstanding to the front of both plots 1 and 2
- Planting of 4 x trees to front of Plot 1
- Addition of hedging to front boundary of the site and between the two plots to the front

PLANNING STATUS

- Urban Area
- Tree Preservation Order (TPO/0014/2018)
- Surface Water Flood Risk Area – Medium Risk
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)

RECOMMENDATION

REFUSE planning permission.

SITE DESCRIPTION

The application site is located on the northwest bend on Guildford Lane within the urban area in Woking. The site is accessed via Guildford Lane which is a narrow private road. The site previously comprised a detached dwelling on a generous plot, however at the time of the site visit on 21.03.2024, the works for application PLAN/2019/0403 had been built out and were nearing completion. Guildford Lane is characterised by sizeable, detached dwellings of varied architectural styles, set on generous plots. To the south-west is a detached dwelling known as Winton House and to the north-east is a detached dwelling known as Langdale. To the rear the site is adjoined by detached dwellings on substantial plots fronting Wych Hill Way.

It is noted that at the time of the site visit on 21.03.2024, the boundary fence between the two plots to the front was in situ. Additionally, the gates serving plot 2 were in situ, whilst the gate posts for plot 1 were in place. Therefore, a number of the works subject of this application would be retrospective.

PLANNING HISTORY

PLAN/2023/0568 - Section 73 application to vary Condition 2 of planning permission PLAN/2019/0403 (Proposed construction of 2no. detached two storey dwellings (each with 5no. bedrooms) with accommodation within the roofspace with dormer windows following demolition of existing property, retention of existing access and associated hard surfacing) to allow for a new access and separate drive to Plot 1 – Refused 15.12.2023 for the following reason:-

- 1. The proposal, by reason of the removal of significant trees, understory and mature vegetation of high public amenity value, which make a positive and important contribution to the verdant character of the area, to accommodate the proposed access for plot 1, results in a visually intrusive and detrimental impact on the character and appearance of the site and surrounding area and would undermine the ability to replace the felled Tree Preservation Order trees, resulting in a permanent loss of trees and understory to the front boundary of the site. The proposed development would be detrimental to, and would fail to make a positive contribution to, the attractive verdant character and quality of the site. The proposal is therefore contrary to Policies CS21 and CS24 of the Woking Core Strategy (2012), Policies DM2 and DM10 of the DM Policies DPD (2016), Design SPD (2015) the National Planning Policy Framework (2023) and section 206 of the Town and Country Planning Act (1990).*

ENF/2023/00098 - Breach of condition re landscaping and access – DC application submitted

TRDD/2023/0010 - Removal of one dead Silver Birch tree located in the front garden of the property – Prior Approval Approved – 22.06.2023

COND/2020/0179 - Approval of details pursuant to Conditions 3 (materials), 8 (landscaping), 9 (boundary treatment), 11 (electric vehicle charging points), 12 (drainage) and 13 (energy and water use) of planning permission PLAN/2019/0403 dated 12.08.2020 (Proposed construction of 2no. detached two storey dwellings (each with 5no. bedrooms) with accommodation within the roofspace with dormer windows following demolition of existing property, retention of existing access and associated hard surfacing (Amended plans received 22.05.19)). – Permitted – 05.02.2021

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PLAN/2020/1094 - Variation of condition 2 to PLAN/2019/0403 (Proposed construction of 2no. detached two storey dwellings (each with 5no. bedrooms) with accommodation within the roofspace with dormer windows following demolition of existing property, retention of existing access and associated hard surfacing (Amended plans received 22.05.19) – Refused 28.01.2021 for the following reasons:-

1. *The proposed amendments, would by reason of the layout of the development, scale, massing, bulk and depth of the proposed dwellings, dominant roof form result in a bulky, cramped and incongruous form of development that would be dominant, visually intrusive and detrimental to the established spacious and verdant character of the site and surrounding area. The proposal would also fail to take the opportunity for improving the character and quality of the area contrary to Policies CS21 and CS24 of the Woking Core Strategy 2012, SPD Design and the NPPF.*
2. *The proposed amendments to the dwelling on Plot 1 would result in a significant loss of outlook from and sense of enclosure to the neighbouring first floor bedroom window at Winton House to the significant detriment of amenities of the neighbouring property. In this regard the proposed development is therefore contrary to Policy CS21 of the Woking Core Strategy 2012, the SPD Outlook, Amenity, Privacy and Daylight 2008 and the NPPF.*

The above decision was dismissed at appeal on 10.12.2021 as the Inspector concluded that the proposal would materially harm the character and appearance of the area and would conflict with policies CS21 and CS24 of the Woking Core Strategy. In respect of neighbour impact, the Inspector also concluded that the proposed variation would harm the living conditions of the neighbouring property, Winton House, in terms of privacy and outlook, and therefore would fail to comply with policy CS21 of the Core Strategy.

PLAN/2020/0732 - Section 73 application to vary Condition 2 of planning permission PLAN/2019/0403 dated 12.08.2020 for Proposed construction of 2no. detached two storey dwellings (each with 5no. bedrooms) with accommodation within the roofspace with dormer windows following demolition of existing property, retention of existing access and associated hard surfacing – Refused 10.11.2020 for the following reasons;-

1. *The proposed amendments would, by reason of the layout of the development, scale, massing, bulk and depth of the proposed dwellings, dominant roof form result in a bulky, cramped and incongruous form of development that would be dominant, visually intrusive and detrimental to the established spacious and verdant character of the site and surrounding area. The proposal would also fail to take the opportunity for improving the character and quality of the area contrary to Policies CS21 and CS24 of the Woking Core Strategy 2012, SPD Design and the NPPF.*
2. *The proposed amendments to the dwelling on Plot 1 would result in a significant loss of outlook from and sense of enclosure to the neighbouring first floor bedroom window at Winton House to the significant detriment of amenities of the neighbouring property. In this regard the proposed development is therefore contrary to Policy CS21 of the Woking Core Strategy 2012, the SPD Outlook, Amenity, Privacy and Daylight 2008 and the NPPF.*

PLAN/2019/0403 – Proposed construction of 2no. detached two storey dwellings (each with 5no. bedrooms) with accommodation within the roofspace with dormer windows following demolition of existing property, retention of existing access and associated hard surfacing (Amended plans received 22.05.19) – Permitted Subject to S106 Agreement – 12.08.2020

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PLAN/2018/1048 - Construction of 2no. detached two storey dwellings (each 5no. beds) with accommodation within the roofslope with dormer windows following demolition of existing property, retention of existing access, new access and associated hard surfacing. – Refused 21.11.2018 for the following reasons:-

1. *The proposed development would by reason of the plot shape and size, layout of the development, the small rear gardens, the positioning of dwellings, lack of spacing to boundaries, scale, massing, bulk and depth of the proposed dwellings, dominant roof form and loss of trees and vegetation, result in a cramped and incongruous form of development that would be dominant, visually intrusive and detrimental to the established spacious and verdant character of the site and surrounding area. The proposal would also fail to take the opportunity for improving the character and quality of the area contrary to Policies CS21 and CS24 of the Woking Core Strategy 2012, Policies DM2 and DM10 of the DM Policies DPD 2016, SPD Design and the NPPF.*
2. *The proposal would, by reason of the removal of significant trees, understory and mature vegetation of high public amenity value which make a positive and important contribution to the verdant character of the area to accommodate the proposed dwelling and access for plot 1 would result in a detrimental impact on the character and appearance of the site and would be prejudicial to the long term health and retention of the retained trees which may result in further loss of trees from the site. The proposed development would be detrimental to and would fail to make a positive contribution to the verdant character and quality of the site. The proposal is therefore contrary to Policies CS21 and CS24 of the Woking Core Strategy 2012, Policy DM2 of the DM Policies DPD 2016 and the NPPF.*
3. *The proposed dwelling on plot 1 in relation to the neighbouring first floor bedroom window at Winton House would result in a significant loss of outlook from the sense of enclosure to this window to the detriment of the amenities of the neighbouring property. In addition given the proximity of the dwelling on plot 1 to the shared boundary and the first floor bedroom window in Winton House it has not been demonstrated that the proposal would not result in an unacceptable loss of daylight to this first floor bedroom window which would be detrimental to the amenities of the neighbouring property. In this regard the proposed development is therefore contrary to Policy CS21 of the Woking Core Strategy 2012, the SPD Outlook, Amenity, Privacy and Daylight 2008 and the NPPF.*
4. *The size of the rear amenity space for both plots is significantly below the size of the dwelling and given their tapering form are not considered to result in a suitable area of private amenity space which is in scale with the substantial size of the proposed dwellings. It is considered that this is symptomatic of the size of the proposed dwellings in relation to their plot sizes and would exacerbate the cramped nature of the proposed development and would not result in a high standard of amenity for the future occupiers of the site contrary to Policy CS21 of the Woking Core Strategy 2012, SPD Outlook, Amenity, Privacy and Daylight 2008 and the NPPF.*
5. *No ecology report has been submitted with the application. The application includes the demolition of the existing dwelling which dates from the 1930s and the removal of 3no. mature trees. No assessment has been made with regard to whether the buildings and/or trees are suitable for bats. In the absence of an ecological appraisal it has not been demonstrated that the proposal would not result in an adverse impact on ecology contrary to Policy CS7 of the Woking Core Strategy 2012, Circular 06/05 - Biodiversity and Geological Conservation and the NPPF.*
6. *In the absence of a Legal Agreement to secure contributions towards mitigation measures, the Local Planning Authority is unable to determine that the additional dwelling would not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection*

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Area, either alone or in combination with other plans and projects in relation to urbanisation and recreational pressure effects, contrary to the Conservation of Habitats and Species Regulations 2010 (SI No. 490 - the "Habitats Regulations"), saved Policy NRM6 of the South East Plan 2009, Policy CS8 of the Woking Core Strategy 2012 and the Thames Basin Heaths Avoidance Strategy 2010-2015.

PLAN/2015/0399 – *Erection of a detached dwelling with associated landscaping* - Refused 11.11.15 for the following reasons:

- 1. The proposal by reason of the plot shape, layout, positioning, spacing, depth of the proposed dwelling and potential loss of trees, would result in a cramped form of development that would be out of keeping with the established spacious and verdant character of the area. The proposal would therefore fail to respect and make a positive contribution to the character and appearance of the area contrary to Policies CS21 and CS24 of Woking Core Strategy (October 2012), Policy HSG22 of the Local Plan (1999), Design SPD, Plot Sub-division: 'Infilling' and 'Backland Development' SPG and Section 7 of the National Planning Policy Framework (2012).*
- 2. The proposed dwelling, by reason of the first floor middle bedroom window on the rear elevation and limited separation distance to the rear garden of Winton, would result in an unacceptable loss of privacy and degree of overlooking which would have a significant harmful impact on their residential amenity contrary to Policy CS21 of the Core Strategy 2012 and Supplementary Planning Document 'Outlook, Amenity, Privacy and Daylight' and the core principle of the National Planning Policy Framework to secure a good standard of amenity for existing and future occupiers of land and buildings.*
- 3. The arboricultural information submitted fails to take into account the positioning of the proposed dwelling and associated works and the implications for on site trees. The information is therefore insufficient to demonstrate that the proposed development would not damage the existing on site trees. This is contrary to Policy NE9 of the Local Plan (1999) and Policy CS21 of the Core Strategy and the National Planning Policy Framework 2012.*
- 4. In the absence of a Legal Agreement or other appropriate mechanism to secure contributions towards affordable housing, it cannot be determined that the proposed dwelling would make sufficient contribution towards affordable housing. The proposal is therefore contrary to Policy CS12 of the Woking Core Strategy 2012 and Supplementary Planning Document 'Affordable Housing Delivery (2014)'.*
- 5. In the absence of a Legal Agreement or other appropriate mechanism to secure contributions towards mitigation measures, it cannot be determined that the additional dwelling would not have a significant impact on the Thames Basin Heaths Special Protection Area, contrary to Policy CS8 of the Woking Core Strategy (2012), the Thames Basin Heaths Avoidance Strategy (2010 - 2015) and saved Policy NRM6 of the South East Plan (2009) and the Conservation of Habitats and Species Regulations 2010 (SI No. 490 - the "Habitats Regulations").*

The above decision was dismissed at appeal 23.02.16 and in respect of neighbour impact to Winton House, the Inspector also concluded that the proposed new dwelling would “*by virtue of its size and proximity, would seriously impair the outlook from the flank bedroom window, creating a ‘hemmed in’ feeling. The occupiers of that house would experience a much greater sense of enclosure from that window, making living conditions much less pleasant.*”

PLAN/2004/0869 – *Erection of a two storey side and a single storey rear extension* - Permitted 20.09.04

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CONSULTATIONS

SCC Highways – (dated 19.02.2024) – The County Highway Authority has undertaken an assessment in terms of the likely net additional traffic generation, access arrangements and parking provision and are satisfied that the application would not have a material impact on the safety and operation of the adjoining public highway. The County Highway Authority therefore has no highway requirements.

WBC Arboriculturist – (received 09.02.2024) -From an arboricultural perspective the proposed is considered acceptable this includes the replacement trees and hedges as indicated. The arboricultural information should be complied with in full.

Surrey Wildlife Trust– (dated 05.03.2024) – We recommend that prior to the determination of this planning application, the development site is surveyed by a suitably qualified ecologist to help determine the status of ecological features on site, which could be adversely affected by the proposed development works and to put forward for consideration by the LPA any required any required impact avoidance and mitigated proposals to prevent such effect. All surveys should conform to best practice guidance.

REPRESENTATIONS

Nine (9) letters of objection were received from eight (8) neighbouring dwellings. The letters raise concerns for:-

Visual impact

- The proposal will cause detrimental harm and damage to the verdant nature and character of this unique area. This section 73 application fails to achieve and deliver the requirements to respect and make a positive contribution to the street scene and character of the area in which they are situated, which will cause harm to the neighbourhood and environment, whilst having the potential to incur safety issues. With the removal of trees /hedgerow, both houses are visually prominent and overbearing and the materiality of the hardstanding is out of character with the neighbourhood and area. The proposal conflicts with the principles and standards contained within the NPPF, Woking Core Strategy; namely CS7, CS21 and CS24

Please see 'Impact on Visual amenity and character of the Area' section of report

Neighbour impact

- The proposals will cause detriment to the amenities of nearby properties and fails to ensure that the proposed development does not adversely affect the amenities at present enjoyed by the occupiers of the adjoining and nearby properties

Please see 'Impact on Neighbouring Amenity' section of report

Parking and Highways

- Increases risk where the development will prejudice highway safety and cause inconvenience to other highway users and the interests of public safety and amenity

Please see 'Impact on Highways and Parking' section of report

Trees and Landscaping

- Removal of condition 8 of planning permission PLAN/2019/0403 would give the developer permission to remove even more trees and shrubs front the site than has already taken place which would further impact on the visual amenity and character.

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The application does not seek to remove condition 8 of planning permission PLAN/2019/0403, it seeks to amend this condition (the details of which were approved under discharge of conditions application COND/2020/0179).

- The gate posts and gates for plot 2 are already in place, as well as close boarded fencing erected between the two properties at the front which is contrary to condition 7 of planning permission PLAN/2019/0403

The application seeks to regularise the current breach of condition 7 of planning permission PLAN/2019/0403.

- The developer has uprooted all the mature hedgerow and vegetation along the frontage of Guildford Lane and no replanting has taken place.

Please see 'Impact on Visual amenity and character of the Area' and 'Impact on trees and Landscaping' sections of this report for the assessment of the loss of mature hedgerow and vegetation on the frontage of Guildford Lane.

- TRDD/2023/0010 relates only to the Silver Birch and nothing exists for the mature Beech Tree which was also felled.

TRDD/2023/0010 relates to both the Silver Birch and Beech trees which were previously to the front of the site.

Planning History

- The latest application has increased the size of the driveway to plot 1 and located it more centrally on the plot in breach of the original approval.

It is acknowledged that the development is currently in breach of a number of planning conditions attached to planning permission PLAN/2019/0403 and that the current application, subject of this report, seeks to regularise this.

- Given the planning history of the site, it would not be rational to approve the proposal. The application must be looked at in the context of the history of the site. The new application attempts to override the conditions of planning permission PLAN/2019/0403 and the previous reasons for refusal at the site.

A sites planning history forms a material planning consideration in the assessment of an application.

Other Matters

- A similar application was refused by the Council in December 2023. To issue a new application instead of appealing the decision seems to be an abuse of process and inappropriate use of the planning system.

A sites planning history forms a material planning consideration in the assessment of an application. The planning system does not prevent a new application being submitted, irrespective of whether previous refusals have been appealed or not and as such, the applicant has exercised their right to submit a new application.

- The reasons for refusal of application PLAN/2023/0568 have not been dealt with in this new application. The proposals seek to mitigate a significant number of conditions of

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planning permission PLAN/2019/0403. How many more applications will be submitted by the developer

The assessment contained within this report will include whether or not the current scheme is acceptable against relevant national and local policies with the planning history of the site forming a material planning consideration. There is no limit to the number of applications a developer can submit at any one site and as such, it is the role of the LPA to assess the application put before them.

- The application fails to justify the necessity and requirement for the new access other than financial benefit

Financial implications would not form a planning consideration in the assessment of an application.

- There is a current enforcement case at the application site however, WBC have taken no action to prevent the developer from continuing works contrary to the permission, despite neighbouring reports.

It is noted that the reports from neighbouring dwellings have been taken into account and enforcement case ENF/2023/00098 is ongoing. The current status of this enforcement case is that a DC application has been submitted. The application subject of this report, seeks to regularise current breaches and therefore, it is necessary to await the outcome of this application to be in a position to move forward with the enforcement case. It is advised that procedure must be adhered to in the planning and enforcement processes and that any works carried out without planning permission or in breach of planning consideration are at the risk of the applicant/developer.

RELEVANT PLANNING POLICY

National Planning Policy Framework (NPPF) (2023):

Section 12 – Achieving well-designed and beautiful places

Section 14 – Meeting the challenge of climate change, flooding and coastal change

Woking Development Management Policies DPD (2016):

DM2 – Trees and Landscaping

DM10 – Development on Garden Land

Woking Core Strategy (2012):

CS1 – A spatial strategy for Woking Borough

CS7 – Biodiversity and nature conservation

CS8 – Thames Basin Heaths Special Protection Area

CS9 – Flooding and Water Management

CS10 – Housing provision and distribution

CS11 – Housing mix

CS12 – Affordable housing

CS18 – Transport and Accessibility

CS21 – Design

CS24 – Woking's Landscape and Townscape

CS25 – Presumption in favour of sustainable development

Supplementary Planning Documents (SPD):

Design (2015)

Parking Standards (2018)

Outlook, Amenity, Privacy and Daylight (2022)

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Affordable Housing Delivery (2023)

Thames Basin Heaths Special Protection Area Avoidance Strategy (2022)

Other Material Considerations

Waste and Recycling provisions for new residential developments

Community Infrastructure Levy (CIL) Charging Schedule (2015)

PLANNING ISSUES

1. Given the proposed amendments to PLAN/2019/0403 the main planning considerations in the determination of this application are:
 - Impact upon visual amenity and character of the area
 - Impact on neighbouring amenity
 - Impact on Highways and parking
 - Impact on Trees and landscaping
 - Other matters
2. having regard to the relevant policies of the Development Plan, other relevant material planning considerations and national planning policy and guidance. The previous appeal decision in relation to application PLAN/2015/0399 and the refusal of planning permission under PLAN/2018/1048 are also material considerations as to whether the objections raised in these previous applications have been overcome by the current proposal.

Impact upon visual amenity and character of the area:

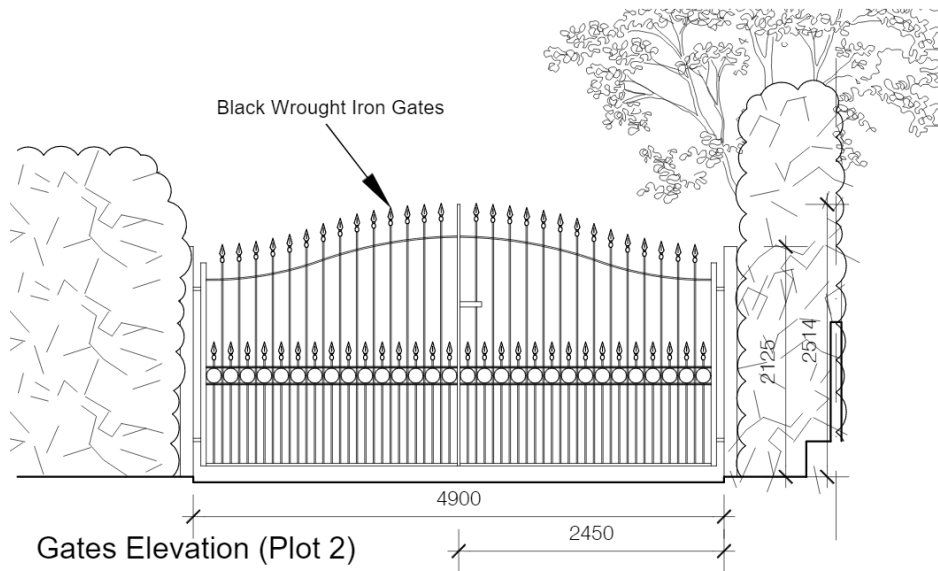
3. Paragraph 126 of the National Planning Policy Framework (NPPF) (2023) states that “*the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve*”. Planning decisions should *inter alia* ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, maintain a strong sense of place and have a high standard of amenity for existing and future occupiers (paragraph 130).
4. Policy CS21 of the Woking Core Strategy 2012 states that buildings should respect and make a positive contribution to the street scene and the character of the area within which it is located. Policy CS24 requires all development proposals to provide a positive benefit in terms of landscape and townscape character. Policy DM10 of the DM Policies DPD (2016) states that housing development on garden land and/or that to the rear or side of an existing property will be supported provided that it meets the other relevant Development Plan policies and that:
 - i. it does not involve the inappropriate sub-division of existing curtilages to a size substantially below that prevailing in the area, taking account of the need to retain and enhance mature landscapes;*
 - ii. it presents a frontage in keeping with the existing street scene or the prevailing layout of streets in the area, including frontage width, building orientation, visual separation between buildings and distance from the road;*
 - iii. the means of access is appropriate in size and design to accommodate vehicles and pedestrians safely and prevent harm to the amenities of adjoining residents and is in keeping with the character of the area; and*

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- iv. suitable soft landscape is provided for the amenity of each dwelling appropriate in size to both the type of accommodation and the characteristic of the locality.*
5. In this case the area falls within the Arcadian typology as described within the Woking Design SPD (2015). It consists of low-density housing with large, detached dwellings set within generous sized plots set back from the road frontage with mature landscaped boundaries which creates an attractive, spacious and verdant environment. The proposal subject of this Section 73 application would not make any external alterations to the dwellings approved by planning permission PLAN/2019/0403 as the proposal involves the creation of an additional means of access onto Guildford Lane which in turn impacts the frontage on the street scene and associated soft landscaping.
 6. Planning permission PLAN/2019/0403 retained the mature trees and understory vegetation along the frontage of the site and on the southern side boundary with the trees protected by Tree Preservation Orders (TPO) (Reference TPO/0014/2018) as the scheme did not include a second access to plot 1, with both dwellings sharing the existing access to the site to the front of plot 2 and a shared drive to the front. The omission of the second access and retention of the trees and understory (alongside other changes to the scale, mass and bulk and separation distances to the dwellings) was considered to overcome reason no. 1 for refusal of application PLAN/2018/1048 as the well-established mature vegetation which makes a positive and important contribution to the greening of the site and the verdant character within the locality and this character would be retained as part of this proposal and thus the retention of it respected the prevailing character of development in the surrounding area.
 7. Exceptions relating to applications to carry out work on trees subject to a TPO includes work on dead trees and branches which is urgently necessary because there is an immediate risk of serious harm, subject to written notice to the Local Authority 5 working days before cutting down or carrying out other work on a dead tree and subsequently the authority's consent for such work is not required. In these instances, where the dead tree is not covered by a woodland classification is removed, the landowner has a duty to plant a replacement tree of an appropriate size and species at the same place as soon as they reasonably can in line with the Town and Country Planning Act 1990, Part VIII, Chapter I, Section 206(1).
 8. Following the approval of application PLAN/2019/0403, the protected Silver Birch and Beech trees to the front (southeast) boundary of the site have been felled following dead and dangerous notifications (WBC reference TRDD/2023/0010). The vegetation/understory and hedging on this part of the boundary has also been removed. This formed part of the well-established mature vegetation to the front boundary which was considered to make a positive and important contribution to the greening of the site and the verdant character within the locality. It is noted that neither the Silver Birch tree nor the Beech tree had been replaced at the time of the site visit for the current application on 21.03.2024.
 9. It should also be noted that the existing landscaping and vegetation to the front boundary of the site (some of which has now been removed) was protected by planning condition and the details approved by the LPA pursuant to Condition 8 (landscaping) of planning permission PLAN/2019/0403 under conditions application approval COND/2020/0179. The removal of the vegetation and landscaping to date is therefore in breach of Condition 8 and the approved landscaping details, and comprises a breach of planning control. The application subject of this report seeks to rectify this breach and seeks retrospective permission for the works carried out. Any other breaches will be pursued separately.

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12. A new vehicular access is proposed to be provided for plot 1 and this would result in the permanent loss of substantial and mature trees and a significant amount of understory growth. The removal of the trees and vegetation has resulted in a significant alteration to the character of the frontage of the site, resulting in the proposed development on the site being more visually prominent within Guildford Lane and in the wider locality of Egley Road and Turnoak Lane, given the positioning of the application site close to the junction of Turnoak Roundabout. Whilst it is acknowledged that 4 replacement trees and a replacement hedge are proposed, the front of the site is more open visually due to the loss of mature trees and understory which in turn results in a loss of its verdant character in this location which would be further exacerbated by the introduction of black wrought iron gates which would span the width of the proposed vehicular access point with a post height of 2.1 metres and maximum height of 2.5 metres as this would be a stark contrast from the matures trees and understory by virtue of the proposed scale and design. It is noted that the gates at plot 2 are already in place and whilst submitted dwg nos. P.505 and P.504 demonstrate that these are of the same height as those proposed at plot 1, the width is 0.2 metres less (4.9 metres). It is also noted that there are minor differences in the design of the gate at plot 2 between the submitted drawing (P.505) and the gates in situ as can be seen below:



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13. Consequently, the loss of mature trees and hedgerow to plot one and the introduction of large iron gates to both plots would exacerbate the detrimental impact on the visual character of the proposed development on the character of the street scene and locality in general.
14. A photograph of the appearance of the site as seen during the site visit, on 21.03.2024, is shown below:



15. The above photograph (taken 21.03.2024) contrasts sharply with the site visit photograph below taken in 2017 showing the site frontage (where the access is proposed) below:



16. The submitted Tree Protection Plan and AMS (Dwg No. TPP 01 Rev 3, dated 12.01.2024) illustrates that the proposed vehicular access would have a width of approximately 5.1 metres and would be inset from the south corner of the site by approximately 9.5 metres. This drawing, as well as the Proposed Site Layout with Topo (Dwg No. P.501, dated

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19.01.2024) also illustrate that the proposed access drive to plot 1 would be straight on the southwestern side, whilst the north eastern side curves, resulting in a L shaped area of hardstanding. This hardstanding is mirrored on plot 2 and had already been laid out on both plots at the time of the site visit on 21.03.2024. It is noted that the hardstanding on both plots is larger than that which was proposed under previous S.73 application PLAN/2023/0568 which was subsequently refused. Whilst it is acknowledged that the proposal does include the planting of 4 x new trees to the front of Plot 1, the larger areas of hardstanding to the front of the plots result in a decreased density of the vegetation and understory to the front boundary of the site, particularly to plot 1, whilst the shape and central positioning of the access to plot 1 would create a large clearing, resulting in both dwellings appearing visually prominent from the public realm.

17. Irrespective of the above, the principle of creating a second access to serve plot 1 would result in a permanent loss of trees and understory and would instead maintain the sites existing open appearance. The loss of the mature vegetation to the front of the site detracts from the locality's green and verdant character and thus would appear inconsistent in this locality to the detriment of the character of the area. The laying of hardstanding in this location is likely to compromise the ability for the proposed replacement trees to grow to a similar scale as the felled trees and thus would undermine the ability to comply with the conditions of the Dead and Dangerous notice, which the trees were felled under. Though it is acknowledged that the proposal includes four new trees and a Beech hedge to the front of Plot 1, they would result in a loss of density to the former verdant character of the site given that the hedge would be of a significantly smaller scale and the proposal would include a 5.1 metre opening for vehicular access. Thus, it is considered that the additions would overcome the harm to the visual character which would be caused by additional access proposed. With this taken into account, it is considered that the works subject of this application result in a development which is detrimental to the visual importance of the site as detailed earlier in the report.
18. In relation to the dismissed appeal for application PLAN/2015/0399, the Inspector concluded that the appeal development "*would erode the locality's existing spacious and verdant character*". Given the characteristics of the proposal subject of application PLAN/2018/1048, the same conclusions were drawn, and it was concluded that the scheme did not overcome the conclusions of the Inspector in dealing with the dismissed appeal in relation to application PLAN/2015/0399. Subsequently, the current application (subject of this report) does not overcome the conclusions of the appeal decision for application PLAN/2015/0399 or reasons for refusal 1 and 2 of application PLAN/2018/1048 due to the permanent loss of mature vegetation and trees to the front of the site.
19. In consideration of the above matters, the lack of an objection to the proposal on grounds of density and dwelling type/size is not considered to outweigh the other identified objections to the proposal on visual amenity grounds. It is therefore considered that the proposed development, by reason of the loss of trees, understory and mature vegetation, results in a visually intrusive and detrimental impact to the established verdant character of the site and surrounding area and would undermine the ability to comply with the condition of the dead and dangerous notice for the protected trees which have been felled on the site. The proposal would also fail to take the opportunity for improving the character and quality of the area contrary to Policies CS21 and CS24 of the Woking Core Strategy 2012, Policies DM2 and DM10 of the DM Policies DPD 2016, SPD Design (2015) and the NPPF (2023) and section 206 of the Town and Country Planning Act 1990.

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Impact on neighbouring amenity:

20. The proposed amendments would make no changes to the dwellings and as such would have no greater impact on the nearest neighbouring dwellings in terms of sunlight, daylight, privacy or overlooking. Had the application been otherwise considered acceptable, Condition 5 of planning permission PLAN/2019/0403 would have been re-imposed which would require the first floor rooflight in the south west roofslope of the dwelling on Plot 1 and in the southern and northern elevations of the dwelling on Plot 2 to be glazed entirely with obscure glazing and no openings below 1.7 metres of the internal floor height to safeguard the amenities of the adjoining properties.

Impact on highways and parking:

21. The proposal relates to the provision of a net increase of 1no. additional dwelling accessed off Guilford Lane, which is a private road. Although Guildford Lane meets the public highway at Wych Hill Lane, the County Highway Authority has advised that they have considered the wider impact of the proposed development and do not consider that it has a material impact on the safety and operation of the adjoining public highway. Consequently, the County Highway Authority has no requirements.
22. In terms of parking provision, the Parking Standards SPD 2018 states that dwellings with 5+ bedrooms should have 3 parking spaces. The proposed site layout plan shows a large L shaped areas of hardstanding for each plot, which would provide adequate space for the parking for at least 3 vehicles to park and turn. On this basis it is considered that the proposed development is acceptable in terms of parking provision. It should also be noted that sufficient parking provision was approved under PLAN/2019/0403 for both dwellings with the shared access.
23. It is also considered that each plot could accommodate any required cycle parking as may be required by future occupiers. In accordance with the Climate Change SPD, a condition was included with permission PLAN/2019/0403 to require 1no. passive charging point to be provided per dwelling (condition 11), the details of which were subsequently approved under application COND/2020/0179. In the event of planning permission being granted, a condition to a similar effect would have been included, taking into account the information which has been received and approved since.
24. Whilst particular concern has been raised for the increased risk where the development will prejudice highway safety and cause inconvenience to other highway users and the interests of public safety and amenity, given the comments of SCC Highways, it is considered that the proposed development would not prejudice highway safety in this location.
25. In highway safety and parking terms, the proposed development is considered to comply with Policy CS18 of the Core Strategy, the SPD's Parking Standards and Climate Change and the NPPF (2023).

Impact on trees:

26. Prior to the approval of planning application PLAN/2019/0403, the application site is host to a number of TPO trees (reference TPO/0014/2018) located on the south east and south west boundaries including of a Silver Birch tree, a Beech tree and mature hedgerow. Since the approval of application PLAN/2019/0403, the Silver Birch and Beech trees located on the south east boundary have been felled due to being dead and dangerous (WBC ref TRDD/2023/0010) and it is proposed that they will be replaced by a Parrotia Persica, Davidia Involucrata and Fagus Sylvatica adjacent to the south west boundary at the front of the site, a Magnolia x Soulangeana which would be adjacent to the shared

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boundary between plots 1 and 2 to the front of the site, which would be in a similar location to the trees which have been felled. The proposal also includes a new Beech hedge along the southeast boundary to partially replace that which has been removed.

27. The Council's Arboricultural Officer was consulted on the application and raised no objections on arboricultural grounds given that it includes the planting of two replacement trees, subject to a pre commencement meeting taking place prior to the installation, to include the LA tree officer and Arb consultant. It is considered that a condition to this effect would pass the 5-part test for planning conditions as set out in paragraph 56 of the NPPF (2023) and thus would have been included had the application been otherwise considered acceptable.
28. However, it is advised that the lack of objection from the Council's Arboricultural Officer does not contest the impact the works would have on the visual quality of the locality due to the permanent loss of trees, understory and vegetation to the frontage, as detailed within the *Impact on Visual Amenity and Character of the Area* section of this report.

Other matters:

29. It is understood the Thames Basin Heaths SPA required financial contribution for SAMM has already been paid to avoid/mitigate harmful impacts to the SPA as a result of the net increase of 1 dwelling.
30. Had the application been otherwise considered acceptable, then all other planning conditions from the PLAN/2019/0403 permission, which remain relevant and/or have on-going requirements, would have been re-imposed on any new permission granted as required along with any additional conditions that may have been required as a result of this proposal.

CONCLUSION

For the reasons set out above the proposed development is not considered to comply with the relevant local planning policies, forming the Development Plan or the NPPF (2023). In considering this application the Council has had regard to the provisions of the Development Plan, so far as material to the application, and to any other material considerations including any letters of representation. The lack of any objection to the application on the other grounds detailed in this report are not considered to outweigh the significant planning objections to the scheme in terms of impact on visual amenity and character as detailed in this report. As the proposed development is contrary to national and local planning policies the refusal of the application is justified in the public interest.

BACKGROUND PAPERS

Site Photographs dated 21st March 2024.

RECOMMENDATION

REFUSE Planning Permission for the following reason(s):

01. The proposal, by reason of the removal of significant trees, understory and mature vegetation of high public amenity value, which make a positive and important contribution to the verdant character of the area, to accommodate the proposed access for plot 1, results in a visually intrusive and detrimental impact on the character and appearance of the site and surrounding area and would undermine the ability to replace

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the felled Tree Preservation Order trees, resulting in a permanent loss of trees and understory to the front boundary of the site. The proposed development would be detrimental to, and would fail to make a positive contribution to, the attractive verdant character and quality of the site. The proposal is therefore contrary to Policies CS21 and CS24 of the Woking Core Strategy (2012), Policies DM2 and DM10 of the DM Policies DPD (2016), Design SPD (2015) the National Planning Policy Framework (2023) and section 206 of the Town and Country Planning Act (1990).

Informatives:

01. The plans the subject of this refusal of planning permission as submitted with the application are:
 - Location Plan – L.501 – dated January 2024 and received by the Local Planning Authority 19.01.2024
 - Proposed Site Layout with Topo – P.501 – dated January 2024 and received by the Local Planning Authority 19.01.2024
 - Proposed Site Layout – P.502 - dated January 2024 and received by the Local Planning Authority 19.01.2024
 - Existing and Proposed Street Scene Elevations – P.503 - dated January 2024 and received by the Local Planning Authority 19.01.2024
 - Tree Planting Plans and AMS – TPP 01 Rev 3 - dated January 2024 and received by the Local Planning Authority 19.01.2024
 - Plot 1 Gates – Plan and Elevation – P.504 - dated February 2024 and received by the Local Planning Authority 01.02.2024
 - Plot 2 Gates – Plan and Elevation – P.505 - dated February 2024 and received by the Local Planning Authority 01.02.2024

02. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of the National Planning Policy Framework (2023). In this instance, the applicant has not engaged with the Council's pre application advice service and there are no minor alterations which could be made which would change the recommendation. Further to this, the recommendation is consistent with previous decisions for similar schemes at the applications site given that there have been no significant changes to national or local policy in this regard.

03. At the time of the site visit on the 21.03.2024, it is noted that gate posts appear to be in place to serve the driveway proposed by this application, gates and posts to serve plot 2 and 1.8 metre close boarded fencing between the two plots to the front of the site (as can be seen in the site photos). It is advised that condition 7 of planning permission PLAN/2019/0403 removed permitted development rights for gates, fencing and means of enclosure on the site or within the curtilage of any dwellinghouse without planning permission being first obtained from the Local Planning Authority. Thus, it is advised that this type of development would require planning permission and may be subject to enforcement action given that there is currently no planning permission in place for such a development in this location on the site.

04. The applicant is also advised that the removal of the vegetation and landscaping to the front of the site and laying of hardstanding is contrary to condition 8 (landscaping) of PLAN/2019/0403 and the conditions approval granted by the LPA under COND/2020/0179 and the removal of this landscaping is in breach of this planning condition. This matter will be pursued separately to remedy the breach of planning control.