

6d PLAN/2022/1120

WARD: BWB

LOCATION: R A Cross, 19 High Road, Byfleet, West Byfleet, Surrey, KT14 7QH

PROPOSAL: Change of use from retail (Class E) to mixed retail/residential use (Class E/Class C3) including rear balcony, relocation of external staircase and fenestration alterations to create 3no flats.

APPLICANT: Mr Graham Cross

OFFICER: Claire Bater

REASON FOR REFERRAL TO COMMITTEE

The application is brought before the Committee at the request of Councillor Boote.

PROPOSED DEVELOPMENT

The planning application seeks permission for the change of use from retail to a mixed retail/residential use including a rear balcony, relocation of the external staircase and fenestration alterations to create three flats. This is a re-submission of PLAN/2022/0686 which was refused for the following reasons:

01. *The proposed development would fail to provide an acceptable standard of accommodation, as evidenced by the lack of outlook and private amenity space, contrary to policy CS21 of the Woking Core Strategy (2012), policy DM9 of the Development Management Policies Development Plan Document (2016), Supplementary Planning Documents Woking Design (2015), Outlook, Amenity, Privacy and Daylight (2022) and the National Planning Policy Framework (2021).*
02. *The proposed development would fail to provide sufficient parking provision contrary to policy CS18 of the Woking Core Strategy (2012), Supplementary Planning Document Parking Standards (2018) and the National Planning Policy Framework (2021).*
03. *In the absence of a Legal Agreement or other appropriate mechanism to secure contributions towards mitigation measures, it cannot be determined that the net additional dwellings 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), saved policy NRM6 of the South East Plan (2009) and the Conservation of Habitats and Species Regulations 2017 (SI No.490 - the "Habitats Regulations").*

The current proposal differs from the above as follows:

- Existing rear dormer altered to create a balcony
- All flats would be 1-bedroom

PLANNING STATUS

- Urban Area
- Conservation Area
- Local Centre

28 FEBRUARY 2023 PLANNING COMMITTEE

- Byfleet Neighbourhood Area
- Surface Water Flood Risk
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)

RECOMMENDATION

REFUSE planning permission.

SITE DESCRIPTION

The application site is a two-storey mid-terraced property located on the north-eastern side of High Road, Byfleet within the Byfleet Village Conservation Area. The building is currently used as a retail unit with show room and ancillary accommodation in a deep projection at the rear.

PLANNING HISTORY

PLAN/2022/0686 - Change of use from retail (Class E) to mixed retail/residential use (Class E/Class C3) including increase in depth of the existing rear dormer, relocation of external staircase and fenestration alterations to create 3no. flats - Refused 17.10.2022

PLAN/1994/0330 - Erection of extension at first floor level to the rear for showroom and office use - Permitted 17.06.1994

1986/0272 - Erection of a rear covered garage/parking/loading area - Permitted 30.04.1986

1980/0436 - Erection of a single storey extension - Permitted 04.06.1980

014476 - Alterations to form a self-contained flat on the first floor and living accommodation at rear of shop on ground floor - Permitted 11.08.1961

CONSULTATIONS

LPA Heritage & Conservation Consultant - *“The scheme retains the office/commercial use on the ground floor and does not change the front elevation. The rear minor extension and other works would not harm the character of the host building nor the wider area. I have no adverse comments.”*

Environmental Health - No objection subject to condition.

County Highway Authority (SCC) - No objection subject to condition.

REPRESENTATIONS

1x letter of objection received, raising the following issues:

- Lack of parking in Byfleet Village in relation to existing residents, visitors and business parking is already insufficient

RELEVANT PLANNING POLICIES

National Planning Policy Framework (NPPF) (2021)

Section 2 - Achieving sustainable development

Section 5 - Delivering a sufficient supply of homes

28 FEBRUARY 2023 PLANNING COMMITTEE

Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 16 - Conserving and enhancing the historic environment

Woking Core Strategy (2012)

CS1 - A spatial strategy for Woking Borough
CS8 - Thames Basin Heaths Special Protection Areas
CS9 - Flooding and water management
CS10 - Housing provision and distribution
CS11 - Housing mix
CS12 - Affordable housing
CS18 - Transport and accessibility
CS20 - Heritage and Conservation
CS21 - Design
CS24 - Woking's landscape and townscape
CS25 - Presumption in favour of sustainable development

Development Management Policies Development Plan Document (2016)

DM7 - Noise and Light Pollution
DM9 - Flats above shops and ancillary accommodation
DM11 - Sub-divisions, Specialist Housing, Conversions and Loss of Housing
DM19 - Shopfronts
DM20 - Heritage Assets and their setting

Supplementary Planning Documents (SPD's)

The Heritage of Woking (2000)
Woking Design (2015)
Outlook, Amenity, Privacy and Daylight (2022)
Parking Standards (2018)

Other Material Considerations:

South East Plan (2009) (Saved policy) NRM6 - Thames Basin Heaths Special Protection Area
Thames Basin Heaths Special Protection Area Avoidance Strategy (2022)
Waste and recycling provisions for new residential developments
Community Infrastructure Levy (CIL) Charging Schedule (2015)
National Planning Practice Guidance

PLANNING ISSUES

Principle of Development:

1. The National Planning Policy Framework (2021) and policy CS25 of the Woking Core Strategy (2012) promote a presumption in favour of sustainable development. The site lies within the designated Urban Area and within the 400m-5km (Zone B) Thames Basin Heaths Special Protection Area (SPA) buffer zone. Policy CS10 of the Woking Core Strategy (2012) seeks to ensure that sufficient homes are built in sustainable locations where existing infrastructure is in place. The principle of residential development is considered acceptable subject to further material planning considerations, specific development plan policies and national planning policy and guidance as discussed below.

Impact on the Conservation Area:

2. The property is located in the Byfleet Village Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering applications within Conservation Areas, Local Planning Authorities shall pay *“special attention...to the desirability of preserving or enhancing the character or appearance of that area”*.
3. The proposed fenestration alterations and balcony would be to the rear of the site and as such would not be visually prominent on the character of the Conservation Area. It is therefore considered that the proposal would preserve the character and appearance of the Conservation Area and would not cause harm to, or the loss of, this heritage asset.

Impact on Character of the Area

4. Policy CS21 of the *Woking Core Strategy* (2012) states that proposals for new development should *“create buildings and places that are attractive with their own distinct identity; they should respect and make a positive contribution to the street scene and the character of the area in which they are situated, paying due regard to the scale, height, proportions, building lines, layout, materials and other characteristics of adjoining buildings and land.”*
5. Policy DM10 of the Development Management Policies DPD (2016) permits subdivision of existing plots providing the proposed development *“does not involve the inappropriate sub-division of existing curtilages to a size substantially below that prevailing in the area”* and *“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 *“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.”*
6. The proposed development would maintain the Class E use at ground floor including the shop frontage and accordingly would remain in keeping with the character of High Road in this regard. The proposal would not make any changes to the front of the site and accordingly would not have a detrimental impact on the visual amenity of the area. The proposal, however, would result in a density of approx. 126dph which is far in excess of the indicative density range of 30-60dph for Local Centres.

Impact on Neighbouring Amenity:

7. Policy CS21 of the *Woking Core Strategy* (2012) advises that proposals for new development should achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or an overbearing effect due to bulk, proximity or outlook.
8. The proposed development would not increase the scale of the building externally other than a small increase in the depth of the existing rear dormer to create a balcony. The proposal would accordingly not create an unacceptable loss of light or overbearing impact towards neighbouring properties.
9. Windows are proposed in the side elevation facing No.21 High Road; these windows would be high level and accordingly it is considered that the proposal would not create unacceptable overlooking issues towards this neighbouring property. A window is proposed at first floor level (in addition to a proposed door opening and high level

windows) facing No.17 High Road. This would be partially obscured by the proposed privacy screen on the proposed access balcony; the screen is considered sufficient to prevent an unacceptable overlooking impact of the private amenity space associated with the adjacent ground floor flats at No.17 High Road. The proposed rear balcony would face the rear service road and the workshops of 7-11 Royston Road; 1.7m high obscure-glazed privacy screens to either side would prevent overlooking of the neighbouring properties at Nos.17 and 21 High Road.

10. It is considered that the proposed siting, scale, massing and design of the proposed extensions would not unacceptably impact sunlight/daylight levels, would not create unacceptable overlooking issues and would not appear unacceptably overbearing towards neighbouring properties.

Private Amenity Space and Standard of Accommodation:

13. Section 12 of the *National Planning Policy Framework* (2021) states that planning decisions should ensure that a 'high standard of amenity' is achieved for existing and future residents and the Council's Supplementary Planning Document *Outlook, Amenity, Privacy and Daylight* (2022) seeks to ensure satisfactory levels of outlook for all residential development. Furthermore, policy DM11 of the *Development Management Policies Development Plan Document* (2016) states that the subdivision of existing dwellings to flats should only be considered acceptable where, among other criteria, "a good quality of accommodation is provided by meeting any relevant housing standards" and where "...each proposed dwelling has access to a suitable area of private amenity space".
14. Whilst the Council has no minimum dwelling size policy requirement, the 2015 National Technical Housing Standards provide a useful guide to reasonable minimum internal floor areas for different types of accommodation; for example, a minimum of 50sqm for one bedroom flats housing two people. The proposed flats would have areas of 62sqm, 65.5sqm and 61sqm, thereby meeting this requirement.
15. As well as overall size, however, regard must also be had for the quality of accommodation in terms of light the rooms receive and the outlook available. The proposed development includes a number of new window openings which would serve habitable rooms, however it is noted that the windows proposed within the side elevations would be high level windows and, as such, the light they would let in would be limited and there would be no opportunity for outlook. In addition, outlook from the ground floor bedroom windows (notwithstanding the proposed planning) would be dominated by parked cars.
16. Flat 1 in the main part of the building above the retail unit would have a well-lit bedroom with good outlook to the front, but its main living area (kitchen/dining room) would have no windows other than any glazing in its external door. As such it would have negligible outlook and light derived from this door would be compromised by the privacy screen on the landing and the rear projection of the building itself. It is noted that the second room oriented to the front is annotated as a sitting room but, given the size of that room and the internal layout of the flat, would likely be used as a bedroom rendering the kitchen/dining area more important as the main living area.
17. Flat 3, the ground floor unit, would have its bedroom at the extremity of the rear projection. This room is proposed to be lit by rear-facing windows, but the outlook from these windows is dominated by the two car parking spaces which are almost immediately outside of these windows. The main living accommodation (a kitchen/dining/sitting area) is located centrally within the projection. Light to this area is solely from 3 shallow, high-level windows. Two of these derive their light from third-party land at No.21 and one is partially

28 FEBRUARY 2023 PLANNING COMMITTEE

under the external landing to Flat 2. The principal living area would consequently receive limited light and have no outlook.

18. Flat 2 (above Flat 3) would have adequate light and outlook to its bedroom but its main living area (kitchen/dining/TV area) would have no outlook, its windows being limited to two shallow, high-level windows under the eaves which derive their light from third-party land at No.21, a window facing the external landing and four rooflights.
19. With regards to private amenity space, Supplementary Planning Document *Outlook, Amenity, Privacy and Daylight* (2022) recommends that one-bedroom flats should have an area of shared garden amenity to provide a setting for the building with a recommended 30sqm for each dwelling. It further states that “*some small private sitting out area such as patios or balconies are encouraged*”. Private amenity space has been identified on the submitted plans; flat 2 would benefit from a private balcony however flats 1 and 3 would share an area of less than 4sqm which is accordingly not considered to be adequate provision for the proposed development.
20. Overall, the standard of accommodation would fall well short of acceptable levels and the proposal is not considered to have overcome the first refusal reason of PLAN/2022/0686. Accordingly, the proposed development is considered to remain contrary to policy CS21 of the *Woking Core Strategy* (2012), policy DM9 of the *Development Management Policies Development Plan Document* (2016), Supplementary Planning Documents *Woking Design* (2015), *Outlook, Amenity, Privacy and Daylight* (2022) and the *National Planning Policy Framework* (2021).

Impact on Car Parking Provision & the Highway:

21. Woking Borough Council’s SPD *Parking Standards* (2018) recommends that flats with one bedroom should provide 0.5 parking space per unit. In addition, retail/office units should provide one car space per 30sqm; in this instance two spaces are required. The submitted plans show two parking spaces would be provided to the rear of the building; the submitted Design and Planning Statement advises these would be for the use of the existing commercial unit therefore no off-road parking provision would be available for the proposed residential units.
22. The proposal site is located on High Road in the Byfleet Local Centre which is a busy and congested stretch of road. There are limited opportunities for on-street parking and this stretch of High Road is heavily parked and there is clearly parking pressure in the area, with the majority of on-street spaces typically occupied during weekday daytime hours. It is noted that the County Highway Authority raises no objection however the remit of the County Highway Authority is limited to highway safety and operation rather than parking pressure and amenity.
23. The proposal site does not benefit from any off-street parking provision, nor is there scope to provide any for the proposed development. The proposal would not therefore meet the minimum parking standards set out in the SPD and would result in a shortfall of 1.5 spaces which is likely to decant further additional parking pressure from occupants and visitors onto the surrounding highway to the detriment of amenity.

Affordable Housing:

24. Policy CS12 of the *Woking Core Strategy* (2012) states that all new residential development will be expected to contribute towards the provision of affordable housing and that, on sites providing fewer than five new dwellings, the Council will require a

28 FEBRUARY 2023 PLANNING COMMITTEE

financial contribution equivalent to the cost to the developer of providing 10% of the number of dwellings to be affordable on site.

25. Paragraph 64 of the *National Planning Policy Framework* (2021) sets out that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. The site is not within a designated rural area and does not constitute major development (development where 10 or more homes will be provided or the site has an area of 0.5 hectares or more).
26. Whilst it is considered that weight should still be afforded to Policy CS12 (Affordable housing) of the *Woking Core Strategy* (2012) it is considered that greater weight should be afforded to the policies within the NPPF 2021. As the proposal represents a development of less than 10 units, and has a maximum combined gross floor space of no more than 1000sqm, no affordable housing financial contribution is therefore sought from the application scheme.

Sustainability:

27. Following a Ministerial Written Statement to Parliament on 25 March 2015, the Code for Sustainable Homes (aside from the management of legacy cases) has now been withdrawn. For the specific issue of energy performance, Local Planning Authorities will continue to be able to set and apply policies in the Local Plans that require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015.
28. The Council has therefore amended its approach and an alternative condition will now be applied to all new residential development which seeks the equivalent water and energy improvements of the former Code Level 4. Had the planning application otherwise been considered acceptable conditions would have required the equivalent water and energy improvements of the former Code Level 4.

Impact on the Thames Basin Heaths Special Protection Area (SPA):

29. The Thames Basin Heaths Special Protection Area (TBH SPA) has been identified as an internationally important site of nature conservation and has been given the highest degree of protection. Policy CS8 of the Core Strategy states that any proposal with potential significant impacts (alone or in combination with other relevant developments) on the TBH SPA will be subject to Habitats Regulations Assessment to determine the need for Appropriate Assessment. Following recent European Court of Justice rulings, a full and precise analysis of the measures capable of avoiding or reducing any significant effects on European sites must be carried out at an 'Appropriate Assessment' stage rather than taken into consideration at screening stage, for the purposes of the Habitats Directive (as interpreted into English law by the Conservation of Habitats and Species Regulations 2017 (the "Habitat Regulations 2017")). An Appropriate Assessment has therefore been undertaken for the site as it falls within 5 kilometres of the TBH SPA boundary.
30. Policy CS8 of the *Woking Core Strategy* (2012) requires new residential development beyond a 40m threshold, but within 5 kilometres of the TBH SPA boundary to make an appropriate contribution towards the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM), to avoid impacts of such development on the SPA. The SANG and Landowner Payment elements of the SPA tariff are encompassed within the Community Infrastructure Levy (CIL), however the SAMM element of the SPA tariff is required to be addressed outside of CIL. The proposed development would require a SAMM financial contribution of £1749 based on a net gain

28 FEBRUARY 2023 PLANNING COMMITTEE

of 3x one bedroom dwellings which would arise from the proposal. The Appropriate Assessment concludes that there would be no adverse impact on the integrity of the TBH SPA providing the SAMP financial contribution is secured through a S106 Legal Agreement. CIL would be payable in the event of planning permission being granted. For the avoidance of doubt, sufficient SANG at Horsell Common has been identified to mitigate the impacts of the development proposal. Nonetheless no Legal Agreement has been submitted to secure the SAMP financial contribution given the other objections to the proposal.

31. In view of the above, and in the absence of a Legal Agreement to secure contributions towards mitigation measures, the Local Planning Authority is unable to determine that the additional dwellings would not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection 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 2017 (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.

Impact on Flood Risk:

32. The application site is on the edge of an area with a medium surface water flood risk. The Flood Risk Assessment within the submitted Design & Planning Statement advises that floor level would be no lower than existing and flood measures incorporated where appropriate. Accordingly, as the footprint of the building would not be extended, it is considered that the proposal would have an acceptable impact on the flood risk of the area.

Local Finance Considerations:

33. The proposed development results in additional dwellings and thus would be liable for a financial contribution under the Community Infrastructure Levy (CIL). CIL is to be charged on the 'gross internal floor space' of proposed development and given the location, scale and nature of development, the resulting floorspace would be less than the existing and accordingly no payment is required.

CONCLUSION

34. Overall, it is considered that the proposed development would not provide a suitable standard of accommodation in terms of outlook and without suitable private amenity space. The additional residential units would increase the parking demand on the site and is considered to place further pressure on the existing on-street parking to the detriment of the amenities of the area and parking provision generally. Furthermore, in the absence of a Legal Agreement or other appropriate mechanism to secure contributions towards mitigation measure, it cannot be determined that the additional dwellings would not have a significant impact on the Thames Basin Heaths Special Protection Area.
35. The proposal is therefore contrary to policies CS8, CS18 and CS21 of the *Woking Core Strategy* (2012), policy DM9 of the *Development Management Policies Development Plan Document* (2016), Supplementary Planning Documents *Woking Design* (2015), *Parking Standards* (2018), *Outlook, Amenity, Privacy and Daylight* (2022) and the *National Planning Policy Framework* (2021) and is recommended for refusal.

BACKGROUND PAPERS

Site visit photographs (dated 07.09.2022)

Design & Planning Statement Ref. HA/2195 dated 6/12/2022 (received 06.12.2022)

RECOMMENDATION

It is recommended that planning permission be REFUSED for the following reasons:

1. The proposed development would fail to provide an acceptable standard of accommodation, as evidenced by the lack of outlook and private amenity space, contrary to policy CS21 of the *Woking Core Strategy* (2012), policy DM9 of the *Development Management Policies Development Plan Document* (2016), Supplementary Planning Documents *Woking Design* (2015), *Outlook, Amenity, Privacy and Daylight* (2022) and the *National Planning Policy Framework* (2021).
2. The proposed development would fail to provide sufficient parking provision contrary to policy CS18 of the *Woking Core Strategy* (2012), Supplementary Planning Document *Parking Standards* (2018) and the *National Planning Policy Framework* (2021).
3. In the absence of a Legal Agreement or other appropriate mechanism to secure contributions towards mitigation measures, it cannot be determined that the net additional dwellings 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), saved policy NRM6 of the *South East Plan* (2009) and the *Conservation of Habitats and Species Regulations* 2017 (SI No.490 - the "Habitats Regulations").

Informatives:

1. The plans hereby refused are:

Drawing No: HA/2195/P/1 Rev 2c "Plans & Elevations Proposed" dated 26th January 2021 and received by the LPA on 27.01.2023

Drawing No: HA/2195/P/2 Rev 2c "Plans & Elevations Existing" dated 26th January 2021 and received by the LPA on 27.01.2023

Drawing No: HA/2195/P/3 Rev 2c "Plans & Elevations Existing" dated 26th January 2021 and received by the LPA on 27.01.2023

Drawing No: HA/2195/P/4 Rev 2c "Plans & Elevations Existing" dated 26th January 2021 and received by the LPA on 27.01.2023

Drawing No: HA/2195/P/5 Rev 2c "Block & Site Plans Existing & Proposed" dated 26th January 2021 and received by the LPA on 27.01.2023