

24th JULY 2018 PLANNING COMMITTEE

5g 18/0311 Reg'd: 28.03.18 Expires: 23.05.18 Ward: BWB

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LOCATION: Natural Flames Ltd, 17 Brewery Lane, Byfleet, West Byfleet, Surrey, KT14 7PQ

PROPOSAL: Conversion of a two-bedroom upper floor flat to 2 x one-bedroom flats, including the insertion of a new first floor door in the rear elevation as well as the implementation of dormer previously approved as part of PLAN/2017/0727.

TYPE: Full

APPLICANT: Mr Nick Constable

OFFICER: Tanveer
Rahman

REASON FOR REFERRAL TO COMMITTEE

The proposal involves the creation of a new dwelling which falls outside of the scheme of delegated powers.

RECOMMENDATION

GRANT planning permission subject to conditions.

PLANNING STATUS

- Urban Area
- Flood Zone 2
- Contamination suspected
- High Archaeological Potential
- Thames Basin Heaths SPA Zone B (400m-5km)

SITE DESCRIPTION

The application site is at the corner of Brewery Lane and Eden Grove. It contains a two-storey, pitched roof, end of terrace property. There are external stairs on its rear elevation which provides access to an external platform which leads to a first floor rear door into the upper floor. A dilapidated corrugated outbuilding covers most of its rear garden area.

During the Case Officer's site visit it was noted that most of the building's interior had been gutted and therefore all floors appear to be vacant. However according to the property's planning history the last lawful use of the ground floor was for retail use while the first floor and roof space contained a three-bedroom flat.

24th JULY 2018 PLANNING COMMITTEE

PLANNING HISTORY

- PLAN/2018/0313: Demolition of building and erection of two one bed apartments with a shallow pitched roof - withdrawn 18.04.2018.
- PLAN/2017/0799: Prior approval for a proposed change of use of a part of retail units (class A1/A2) to 4no one-bedroom dwellings (class C3) - approved 28.09.2017.
- PLAN/2017/0727: Erection of a rear dormer to create an en-suite bathroom at second floor, front rooflights and enlarged window to the ground floor flank elevation. (Amended Description) - permitted 13.09.2017.
- PLAN/2017/0269: Construction of 1 bed flat over garage following demolition of storage unit to rear of 17 Brewery Lane - no further action 10.03.2017.
- PLAN/2016/0320: Retention of a chimney flue - permitted 09.08.2016.
- PLAN/1995/0193/A: Development Appeal - appeal dismissed 24.10.1995.
- PLAN/1995/0193: Retrospective application for the retention of a single storey rear extension for storage purposes ancillary to the retail shop - refused 17.07.1995.
- PLAN/1988/0267/A: Development Appeal - split decision 11.11.1988.
- PLAN/1988/0267: Display of two shop signs and service information boards - refused 26.08.1988.
- PLAN/1988/0220/A: Development Appeal - appeal dismissed 26.02.1988.
- PLAN/1988/0220: Change of use of storage yard to pre-delivery inspection yard for motor vehicles - refused 26.08.1988.
- 0032111: ATLS ADDITION(S) - permitted 01.09.1973.
- 0014477: NEW SHOPFRONT - permitted 01.08.1961.
- 0011153: ALTERATION - permitted.

PROPOSED DEVELOPMENT

This application proposes to convert the first floor to a 1-bedroom flat and to create another 1-bedroom flat in the roof space. Another first floor rear door is proposed in the rear elevation which would provide access to new internal stairs up to the proposed flat in the roof space. The application proposes to implement the rear dormer approved as part of PLAN/2017/0727 in order to serve this new flat. The application also proposes to enlarge an existing ground floor window in the side (south) elevation.

SUMMARY INFORMATION

Site area (excluding dropped kerb area)	0.0175ha
Existing units	1 unit

24th JULY 2018 PLANNING COMMITTEE

Proposed units	2 units
Existing bedrooms/unit	3 bedrooms
Proposed bedrooms/unit	1 bedrooms
Existing site density	57 dwellings/hectare
Proposed site density	114 dwellings/hectare

CONSULTATIONS

County Archaeological Officer (SCC): No objection subject to condition.

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

LPA Drainage & Flood Risk Engineer: *“Following a review of the information submitted, the proposed development is within Flood Zone 2 and is a subdivision of 1 dwelling into 2 dwellings. National Planning Policy and Woking Borough Council’s policy states that all developments within Flood Zone 2 require a Flood Risk Assessment and if necessary a Sequential Test must be carried out. As the proposed development is for the subdivision of a single dwelling into 2 dwellings, this is not classed as a minor development in drainage and flood risk terms and therefore a Sequential Test is required and must be passed. Therefore the application does not comply with NPPF and we cannot recommend approval of this development.*

However, following a review of the other information relating to drainage and flood risk, the proposed development is at first and second floor levels and is within the current curtilage of the property. This means there will be no loss in flood storage and no increase in flood risk. The development itself is above the flood levels for the site and from the plans there will be no increase in the vulnerability of the property.”

LPA Contaminated Land Officer: No objection subject to condition.

NEIGHBOUR REPRESENTATIONS

Three letters of objection were received which made the following main statements:

- An objector questioned why they were not notified of the application. (Case Officer’s note: the relevant neighbours were written to in line with the Council’s procedures.)
- Lack of parking.
- The proposal could cause people to park near the junction which could impede the views of drivers turning in and out of the road.
- There are currently building works undertaken at the application site which has created noise and debris pollution that has had an impact on an objector’s elderly mother who has also lives close to the site.
- An objector questioned whether the area shown as a front garden on the submitted drawings actually belongs to the applicant. Therefore if works are done to this area this could impede pedestrians.
- The owner could withdraw his application PLAN/2018/0313 and convert it back to a garden which would be more in keeping with the area.
- An objector questioned whether there would be sufficient space for refuse storage.

RELEVANT PLANNING POLICIES

National Planning Policy Framework (2012):

Section 4 - Promoting sustainable transport

Section 6 - Delivering a wide choice of high quality homes

Section 7 - Requiring good design

Section 10 - Meeting the challenge of climate change, flooding and coastal change

Section 11 - Conserving and enhancing the natural environment

Woking Core Strategy (2012):

CS1 - A Spatial Strategy for Woking

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

CS16 - Infrastructure Delivery

CS18 - Transport and accessibility

CS21 - Design

CS22 - Sustainable Design and Construction

CS24 - Woking's Landscape and Townscape

CS25 - Presumption in Favour of Sustainable Development

Development Management Policies DPD (2016):

DM8 - Land Contamination and Hazards

DM9 - Flats Above Shops and Ancillary Accommodation

Supplementary Planning Documents

Woking Design SPD (2015)

Outlook, Amenity, Privacy and Daylight (2008)

Parking Standards (2018)

Thames Basin Heaths Special Protection Area Avoidance Strategy 2010-2015

Climate Change (2013)

Affordable Housing Delivery (2014)

PLANNING ISSUES

The main issues to consider in determining this application are the principle of development, impact on character, impact on neighbours, quality of accommodation, impact on flooding, impact on contamination, impact on car parking provision and highway safety, impact on sustainability and the impact on the Thames Basin Heaths Special Protection Area having regard to the relevant policies of the Development Plan.

Principle of development

1. The NPPF and Policy CS25 of the Core Strategy promote a presumption in favour of sustainable development. The application site is located within an established residential area. It also has good road and bus links. For these reasons the site location is considered to be suitably sustainable in the defined urban area of Woking.
2. Policy CS10 of the Core Strategy states that the Council "*will not permit the loss of family homes on sites capable of accommodating a mix of residential units*

24th JULY 2018 PLANNING COMMITTEE

unless there are overriding policy considerations justifying this loss". The proposed development would lead to the loss of a 3-bedroom flat and it is therefore considered that it would lead to the loss of a family dwelling which would be contrary to Policy CS10. It would however result in an additional residential unit which accords with Policy CS11 which states that the *Council "will make provision for at least 4,964 net additional dwellings in the Borough between 2010 and 2027"*. Furthermore, it is noted that the existing flat has no private amenity space and is not therefore considered to be the best quality of accommodation for family purposes. For these reasons it is considered that the principle of development is acceptable subject to further material considerations as set out in this report.

Impact on neighbours

3. The neighbours potentially most affected by the proposal are 15 Brewery Lane to the north and 2 Eden Grove to west.
4. While it is noted that the proposed first floor rear door would be closer to 15 Brewery Lane the existing platform which would provide access to it is not proposed to be enlarged. It is therefore considered that there would be no increase in overlooking towards the rear garden of no.15 or the side access of no.2. The proposed dormer would be the same as that approved as part of PLAN/2017/0727 and it is therefore considered that it would not create unacceptable overlooking issues. The enlarged side window would be at ground floor level and it is therefore considered that it would not create unacceptable overlooking issues either.
5. It is considered that the proposed development would not have an unacceptable impact on the sunlight/daylight levels received by neighbouring properties or to appear unacceptably overbearing towards them.
6. The proposal is considered to be acceptable in terms of its relationship with neighbouring properties and will safeguard the outlook, amenity, privacy and daylight of existing and future occupiers of existing dwellings.

Quality of accommodation and private amenity space

7. The then DCLG's *Technical housing standards – nationally described space standard* (2015) recommends that a 1-bedroom flat should have a minimum gross internal area (GIA) of 37sqm. The proposed first floor flat would have a 38.3sqm GIA and would therefore accord with this. The proposed second floor flat would have a 39.2sqm GIA. It is noted however that the Technical Housing Standards recommends that areas with a head height of 1.5m or less do not contribute to the GIA and that 75% of the GIA should have a head height of at least 2.3m and that the second floor flat would fall short of this. However, this shortfall is considered to be marginal and it should also be noted that Technical Housing Standards has not been adopted by the Council and can therefore only be used as guideline. It is therefore considered that on balance the proposed dwellings would achieve an acceptable size and standard of accommodation with acceptable quality of outlook to habitable rooms.
8. Woking Council's SPD *Outlook, Amenity, Privacy & Daylight* (2008) states that *"Dwellings specifically designed not to be used for family accommodation do not require any specific area to be set aside for each as private amenity space"*. The proposed dwelling would not be family accommodation and it is therefore

24th JULY 2018 PLANNING COMMITTEE

considered that the fact that they would not have any private or communal amenity space would not be unacceptable.

9. The proposal is therefore considered to be acceptable in terms of quality of accommodation and private amenity space.

Impact on flooding

10. The application site is in the EA's Flood Zone 2. As a sequential test has not been undertaken in accordance with paragraphs 100-104 of the NPPF the Council Drainage & Flood Risk Engineer's consultation response states that he "*cannot recommend approval of this development*" but goes on to state that "*following a review of the other information relating to drainage and flood risk, the proposed development is at first and second floor levels and is within the current curtilage of the property. This means there will be no loss in flood storage and no increase in flood risk. The development itself is above the flood levels for the site and from the plans there will be no increase in the vulnerability of the property.*"
11. As the proposed development is considered not to increase flood risk or lead to a loss in flood storage. Therefore, whilst the proposal does not accord with NPPF flooding policy, no planning harm would arise and it is not considered reasonable to refuse this application on flooding grounds.
12. The proposal is therefore considered to have an acceptable impact on flooding.

Impact on contamination

13. Due to the site's former use for the storage of LPG and petroleum/kerosene contamination is suspected. However, the Council's Contaminated Land Officer has raised no objection subject to condition.
14. The proposal is therefore considered to have an acceptable impact on contamination subject to this condition.

Impact on car parking provision and highway safety

15. Woking Council's *Parking Standards SPD* (2018) recommends that 1-bedroom flats should have a minimum of 0.5 car parking spaces per flat. The proposed development would therefore need 1 parking space to comply with this. While it is noted that there is an area of hardstanding to the rear of the existing outbuilding this is not shown to be for parking. It is therefore considered that the proposal would have no parking provision and therefore fall below guidelines in the SPD.
16. However, the proposal has been assessed by the County Highway Authority (SCC) in terms of the likely net additional traffic generation, access arrangements and parking provision and they have raised no objections subject to condition.
17. The potential displacement of 1 car onto the highway would not result in demonstrable planning harm and the proposal is therefore considered to have an acceptable impact on car parking provision and highway safety.

24th JULY 2018 PLANNING COMMITTEE

Sustainability

18. Planning policies relating to sustainable construction have been updated following the Government's withdrawal of the Code for Sustainable Homes. Therefore in applying policy CS22 of the *Woking Core Strategy* (2012), the approach has been amended and at present all new residential development shall be constructed to achieve a water consumption standard of no more than 105 litres per person per day indoor water consumption and not less than a 19% CO2 improvement over the 2013 Building Regulations TER Baseline (Domestic). A planning condition has been recommended to secure this.

Affordable Housing

19. Planning Practice Guidance (Paragraph 031 - Revision date: 19.05.2016) sets out that there are specific circumstances where contributions for affordable housing planning obligations should not be sought from small scale and self-build development. This follows the order of the Court of Appeal judgment dated 13th May 2016, which again gives legal effect to the policy set out in the Written Ministerial Statement of 28th November 2014 and should be taken into account. These circumstances include that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1000sqm.
20. Whilst it is considered that weight should still be afforded to policy CS12 of the *Woking Core Strategy* (2012) it is considered that greater weight should be afforded to the policies within the Written Ministerial Statement of 28th November 2014 and the Planning Practice Guidance (Paragraph 031 - Revision date: 19.05.2016). As the proposal represents a development of 10 units or less, and has a maximum combined gross floorspace of no more than 1000sqm, no affordable housing financial contribution is therefore sought from the application scheme.

Local finance consideration

21. The proposed development would not lead to a gross internal area increase and would therefore be liable to make a financial contribution to CIL.

Impact on the Thames Basin Heaths Special Protection Area

22. The SPAs in this area are internationally-important and designated for their interest as habitats for ground-nesting and other birds. Policy CS8 of the *Woking Core Strategy* (2012) requires new residential development beyond a 400m threshold but within 5km of the SPA boundary to make an appropriate contribution towards the provisions of Suitable Alternative Natural Greenspace (SANG) and the Strategic Access Management and Monitoring (SAMM).
23. Suitable Alternative Natural Greenspace (SANG) and Landowner Payment elements of the SPA tariff are encompassed within the Community Infrastructure Levy (CIL) however the Strategic Access Management and Monitoring (SAMM) element of the SPA tariff is required to be addressed outside of CIL. A SAMM contribution of **£503** in line with the *Thames Basin Heaths Special Protection Area Avoidance Strategy 2010-2015* (April 2018update) as a result of the uplift of one 1-bedroom dwelling that would arise from the proposal would be required.
24. A signed Unilateral Undertaking will be used to secure this financial contribution.

24th JULY 2018 PLANNING COMMITTEE

CONCLUSION

Overall the principle of development is considered to be acceptable and it is considered that it would have an acceptable impact on character, neighbours, quality of accommodation, amenity space, flooding, contamination, car parking provision and highway safety, flood risk, contamination sustainability and the Thames Basin Heaths Special Protection Area having regard to the relevant policies of the Development Plan. The proposal therefore accords with sections 4, 6, 7, 10 and 11 of the *National Planning Policy Framework* (2012), policies CS1, CS7, CS8, CS9, CS10, CS11, CS12, CS16, CS18, CS21, CS22, CS24 and CS25 of the *Woking Core Strategy* (2012), policies DM8 and DM9 of the *Development Management Policies DPD* (2016), *Woking Design SPD* (2015), *Outlook, Amenity, Privacy and Daylight* (2008), *Parking Standards* (2018), *Thames Basin Heaths Special Protection Area Avoidance Strategy 2010-2015*, *Climate Change* (2013) and *Affordable Housing Delivery* (2014).

BACKGROUND PAPERS

Site visit photographs (03.04.2018)

PLANNING OBLIGATIONS

	Obligation	Reason for Agreeing Obligation
1.	Provision of £503 contribution to provide SAMM.	To accord with the Habitat Regulations and associated Development Plan policies and the Council's Adopted Avoidance Strategy.

RECOMMENDATION

It is recommended that planning permission be GRANTED subject to the above legal agreement and the following conditions:

1. The development hereby permitted shall be commenced not later than three years from the date of this permission.

Reason:

To accord with the provisions of Section 91 (1) of The Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in accordance with the approved drawings listed below:
 - 1:1250 location plan Drwg no.S101 (received by the LPA on 19.03.2018)
 - 1:100 proposed block plan Drwg no.617-005A (received by the LPA on 06.04.2018)
 - 1:100 plans and elevations Drwg no.617-004A (received by the LPA on 06.04.2018)

Reason:

24th JULY 2018 PLANNING COMMITTEE

For the avoidance of doubt and to ensure that the development is completed in accordance with the approved drawings.

3. The external finishes of the development hereby permitted shall match those used in the existing building in material, colour, style, bonding and texture.

Reason:

In the interests of the character and appearance of the building and the visual amenities of the area and in accordance with policy CS21 of the *Woking Core Strategy* (2012).

4. The development hereby approved shall not be first occupied unless and until the following facilities have been provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority for:
 - a) The secure parking of bicycles within the development site, and thereafter the said approved facilities shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.

Reason:

The above condition is required in recognition of Section 4 of the NPPF.

5. (i) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the Local Planning Authority.
 - (ii) The above scheme shall include :-
 - (a) a contaminated land desk study;
 - (b) a suitably detailed site investigation proposal;
 - (c) a site investigation report based upon (a) and (b);
 - (d) a remediation action plan based upon (c);
 - (e) a discovery strategy dealing with unforeseen contamination discovered during construction;
 - (f) a validation strategy identifying measures to validate the works undertaken as a result of (d) and (e)
 - (g) a 'verification report appended with substantiating robust evidence demonstrating the agreed remediation has been carried out.
 - (iii) Unless otherwise agreed in writing by the Local Planning Authority, the development shall be carried out and completed wholly in accordance with such details as may be agreed.

Reason:

To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment generally in accordance with Policies CS9 and CS21 of the *Woking Core Strategy* (2012).

6. ++ The development hereby permitted shall not commence until details of the measures to be undertaken to acoustically insulate and ventilate the building for the containment of internally generated noise have been submitted to and approved in writing by the Local Planning Authority.

24th JULY 2018 PLANNING COMMITTEE

Reason:

To protect the environment and amenities of the occupants of neighbouring properties in accordance with Policy CS21 of the *Woking Core Strategy* (2012).

7. ++ The development hereby permitted shall not commence until details of the proposed waste and recycling management arrangements have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in full prior to the first occupation of the development and maintained thereafter for use at all times.

Reason:

In the interests of amenity and to ensure the appropriate provision of infrastructure in accordance with Policies CS16 and CS21 of the *Woking Core Strategy* (2012).

Informatives

1. Your attention is specifically drawn to the conditions above marked ++. These condition(s) require the submission of details, information, drawings, etc. to the Local Planning Authority PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT ON THE SITE or, require works to be carried out PRIOR TO THE COMMENCEMENT OF THE USE. Failure to observe these requirements will result in a contravention of the terms of the permission and the Local Planning Authority may serve Breach of Condition Notices to secure compliance.

You are advised that sufficient time needs to be given when submitting details in response to conditions, to allow the Authority to consider the details and discharge the condition. A period of between five and eight weeks should be allowed for.

2. 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 paragraph 186-187 of the *National Planning Policy Framework* (2012).
3. For the avoidance of doubt, the following definitions apply to the above condition (No:5) relating to contaminated land: Desk study- This will include: -
 - (i) a detailed assessment of the history of the site and its uses based upon all available information including the historic Ordnance Survey, Regulatory Consultations and any ownership records associated with the deeds.Site investigation proposal- This will include: -
 - (i) a detailed methodology for assessing and investigating the site for the existence of any form of contamination which is considered likely to be present on or under the land based upon the desk study.
 - (ii) This is subject to the written approval in writing of the Local Planning Authority, and any additional requirements that it may specify, prior to any site investigation being commenced on site.
 - (iii) Following approval, the Local Planning Authority shall be given a minimum of two weeks written notice of the commencement of site investigation works.Site Investigation Report: This will include: -
 - (i) a relevant site investigation including the results of all sub-surface soil, gas and groundwater sampling taken at such points and to such depth as the Local Planning Authority may stipulate.

24th JULY 2018 PLANNING COMMITTEE

(ii) a risk assessment based upon any contamination discovered and any receptors. Remediation action plan: This plan shall include details of: -

(i) all contamination on the site which might impact upon construction workers, future occupiers and the surrounding environment;

(ii) appropriate works to neutralise and make harmless any risk from contamination identified in (i)

Discovery strategy: Care should be taken during excavation or working of the site to investigate any soils which appear by eye or odour to be contaminated or of different character to those analysed. The strategy shall include details of:

(i) supervision and documentation of the remediation and construction works to ensure that they are carried out in accordance with the agreed details;

(ii) a procedure for identifying, assessing and neutralising any unforeseen contamination discovered during the course of construction

(iii) a procedure for reporting to the Local Planning Authority any unforeseen contamination discovered during the course of construction

Validation strategy: This shall include: -

(i) documentary evidence that all investigation, sampling and remediation has been carried out to a standard suitable for the purpose; and

(ii) confirmation that the works have been executed to a standard to satisfy the planning condition (closure report).

Verification report: This shall include: -

(i) The report shall detail evidence of the remediation, the effectiveness of the remediation carried out and the results of post remediation works. The inclusion of site photographs is considered advantageous. All of the above documents, investigations and operations should be carried out by a qualified, accredited consultant/contractor in accordance with a quality assured sampling, analysis and recording methodology. In addition to this it is expected that best practice guidance from authorities such as the EA, British Standards, CIRIA and NHBC would be followed where applicable.

4. In seeking to address the waste and recycling management condition above, the applicant's attention is drawn to Woking Borough Council's Good Practice Guide for Developers; "Waste and Recycling Provisions for New Residential Developments" and in particular the requirements for provision of bins/containers (page 11). The guidance is available at: www.woking.gov.uk/environment/wasterecycle/goodpracticeguide.