

Appeal Decision

Site visit made on 27 September 2016

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 11th October 2016

Appeal Ref: APP/L3625/W/16/3151612

30 Sandcross Lane, Reigate, Surrey RH2 8EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G Fuller against the decision of Reigate & Banstead Borough Council.
 - The application Ref 15/01777/F, dated 8 August 2015, was refused by notice dated 11 February 2016.
 - The development proposed is the construction of a new attached 3-bedroom dwelling to the side of 30 Sandcross Lane.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a new attached 3-bedroom dwelling at 30 Sandcross Lane, Reigate, Surrey RH2 8EL in accordance with the terms of the application, Ref 15/01777/F, dated 8 August 2015, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: MDP-00452631 Location Plan; SL/001 Proposed Ground Floor Plan; SL/002 Proposed First Floor Plan and Section A-A (includes Proposed Block Plan 1:200), and; SL/003 Proposed and Existing Elevations.
 - 3) The materials to be used in the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no roof enlargements as provided for within Schedule 2, Part 1, Class B of that Order shall be constructed.

Preliminary Matters

2. For clarity, I have adjusted the description of development in the formal decision above to avoid repeating the address of the proposed development. Some of the drawings have duplicated references and show additional information or additional works. For the most part, this has little significance; however, for the sake of clarity and certainty, I have considered the proposed
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front elevation which includes photo-voltaic panels on the roof slope, in reaching my decision.

Main Issues

3. There are two:

- the effect of the proposed development on the character of the surrounding area; and,
- whether or not the proposed development would make adequate provision for affordable housing.

Reasons

4. The site of the appeal is a 2-storey, semi-detached 1930s house with a distinctive double-height, curved front bay set under the extended eaves of a hipped roof. The pair of houses of which it is a part is one of a group of similar pairs along this side of the street which have a distinctive street presence, and despite some limited roof and side extensions among them, a high degree of coherence in townscape. They are set back from the footway by gardens with generally shared side access between the flanks of opposing houses. Whereas most of these houses have a gap of around 3m to 4m between their opposing flank walls, the gap beside the house on the appeal site is substantially greater and occupied by a double garage. The opposite side of the street has a different typology of house, with gables or hips over rectangular bays, and has less bearing on the appeal site than its neighbours on the same side.
5. The Council objects to the width and design of the proposed house, fearing that the resulting lack of space between the proposal and No 32 would create a terracing effect, as well as the size of its back garden being out of keeping with the spacious character of the area. It is also concerned that the proposal would result in car-dominated frontages.
6. While I understand the Council's point about the risk of a terracing effect between the proposed house and No 32, as distinct from the effect of the formation of a terrace in a street of largely semi-detached pairs of houses, the appeal site is unusually wide compared to its neighbours. The gap between the proposed house and No 32, while less than the gap today, would be little different to the gap between similar houses to the east of the site.
7. I have taken into account the developed, side extension at No 32, which is not shown on the submitted plans. However, even accounting for this, and given that the proposed house would stand a marked distance further from the street than No 32, as well as the hipped roof form of the proposal, I do not consider that there would be a terracing effect between the proposal and No 32. Nor would the reduction in the gap between the proposal and No 32 be reduced to such a degree that it would materially harm the character of the street which derives much of its spacious aspect from such lateral gaps. I noticed the curve of the road, but given the forward location of No 32 towards the road relative to the proposed house, I do not think its presence would be more pronounced.
8. I appreciate that the back garden of the proposed house would be shorter and narrower than the back gardens of houses neighbouring the appeal site. However, I noticed that while Nos 30 and 32 have wide and long back gardens, the gardens of the houses to the west become narrower, and the gardens of

the houses to the east shorten. The garden of the proposed house would not be disproportionate to the footprint of the house on the plot and would not be significantly smaller than the back gardens of the houses to the east. In this context, the back garden of the proposed house would have only a limited effect on the spaciousness of the area.

9. I note the concern of the Council regarding the potential for the frontages of the site to appear car-dominated, in the context of a street whose landscape is enriched by planted front gardens such as that already at No 30. However, the front garden of No 32 has been given over to car parking and there are numerous, similar examples in the street. There appears to be sufficient space on site to retain some planting and front boundary enclosure which would make it compatible with many of the neighbouring front gardens.
10. I conclude on this issue that the proposed development would not harm the character of the surrounding area. While the Council refers to its Local Distinctiveness Guide it has not drawn my attention to the relevance of any section. I note it refers to its Householder and Extensions and Alterations Supplementary Planning Guidance and to saved Policy Ho18 of the Borough Local Plan 2005 (LP), but as these concern householder development and the conversion of a dwelling, they are of limited relevance. The proposed development would accord with saved LP Policies Ho9, Ho13, and Ho16 which seek development that maintains the character of the area, which promotes or reinforces local distinctiveness and which considers the proposal in relation to the plot size and shape.

Affordable housing

11. One of the reasons for refusal relates to the lack of any contribution to affordable housing, as required under Policy CS15 of the Reigate and Banstead Core Strategy 2014. The Policy requires that schemes of 1-9 dwellings should make a financial contribution equivalent to 10% so that affordable housing can be provided elsewhere. The appellant has indicated that he is content to provide a planning obligation for a contribution to affordable housing in accordance with the Policy, but none has been provided.
12. A Written Ministerial Statement¹ (WMS) was made on 28 November 2014 which stated that *'for sites of 10 units or less....affordable housing and tariff style contributions should not be sought'*. Its intention was to ensure that financial contributions should not become a disproportionate burden for developers of small sites and thereby frustrate housing supply.
13. This was challenged in the High Court which resulted in a declaration Order being issued in August 2015 confirming that the policies in the WMS must not be treated as a material consideration. However, the Court of Appeal, in its judgment² of 11 May 2016 upheld the Secretary of State's appeal, and the WMS should once again be considered as national planning policy defining the specific circumstances where contributions for affordable housing planning obligations should not be sought from small scale development.
14. The Council, however, maintains that the proposed development should make a contribution towards affordable housing. It refers to its Core Strategy which

¹ House of Commons: Written Statement (HCWS50) 28 November 2014

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

sets out the Council's aim of providing 1,500 affordable homes by 2027, equating to an average of 100 homes per year. Its Position Statement describes how on-site provision by large schemes is insufficient to meet the identified needs for affordable housing, and that provision from smaller schemes is essential to its meeting its targets. It suggests that the introduction of the requirement for affordable housing contributions on small sites has had no discernible impact on the viability of small-scale developments.

15. The Council has provided monitoring data from 2007/2008 to 2015/2016, which defines medium-scale/large-scale developers as those delivering over 100 units per annum, and small builders as those normally delivering less than 100 units per annum. It also includes data for private individuals, which category the proposal in this case reflects.
16. The data for private individual completions shows, allowing for a time-lag for lead-in and construction programmes, that whereas the annual completions in the years preceding the WMS varied between 18 and 32 houses, the completions in 2015/2016 increased dramatically to 60. Similarly for small builders, 2015/2016 shows a marked increase in house completions over those in the years preceding the effect of the WMS. It is unclear from the evidence if the increase in house completions is not in fact as a direct consequence of the WMS rather than despite it, as the Council claims. On the evidence before me, I am therefore not convinced that the requirement for affordable housing contributions on small sites has had no discernible impact on the viability of small-scale developments.
17. I note the comparison to appeal decisions in this Borough³ and in Elmbridge⁴ made by the Council. Regarding the earlier appeal in this Borough, I see no regional completion comparisons in this case. While the evidence in this case indicates that nationally, small-scale and medium-scale builders account for less than 25% of house completions, it is unclear what proportion is accounted for by private individuals or by large-scale builders. As the Council's definition of medium-scale builder includes those building more than 100 houses per annum and the national data refers to builders being those completing up to 500 units per annum, I am not certain that like data is being compared with like data.
18. In the Elmbridge case, the Inspector concluded that a high number of planning permissions for housing fell below the 10-unit threshold of the WMS, whereas in this case, it appears that only 8% of completions are accounted for by private individuals. I note that schemes in this Borough of fewer than 10 units have accounted for around 18% of affordable housing provision in the last 3 years; however, it is unclear what proportion of affordable housing is derived from developments by private individuals, which is relevant to this case. I do not therefore consider that these decisions direct me to a different conclusion.
19. I note the Council's efforts to reduce the burden under the Policy by applying a sliding scale, taking into account viability and the time-saving approach of a flat rate of contributions and its model form. However, these factors do not outweigh the burden of Policy CS15 when considered against the benefit of the increased housing supply intended under the WMS, and which the monitoring

³ Appeal Ref APP/L3625/W/16/3146512

⁴ Appeal Ref APP/K3605/W/16/3146699

data suggests is being achieved. Furthermore, it is unclear how the Council is performing against its affordable housing targets.

20. While I appreciate the position of the Council and accord significant weight to the objective of Policy CS15 in the light of the housing need in its area, in the circumstances of this case it does not outweigh Government policy. Accordingly, the absence of a planning obligation in this respect does not weigh against the proposal.

Conditions and Conclusion

21. The Council has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the Planning Practice Guidance (PPG); for clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
22. It would be necessary in order to provide certainty, to impose a condition requiring the development be carried out in accordance with the approved plans. Given the similarity between the houses on this side of the street and the rhythm of their arrangement, a condition to secure finishing materials would be necessary to safeguard the character and appearance of the area and to make the development acceptable.
23. Given the proximity of the proposed house to the side boundary and to the flank of No 32, the potential to enlarge the roof of the house further without adversely affecting the character and appearance of the area is limited. While the PPG advises that conditions limiting permitted development rights should only be used in exceptional circumstances, I agree that the withdrawal of permitted development rights under class B (additions etc. to the roof of a dwelling house) would be necessary. The hipped form of the roof of the proposal helps to retain the characteristic spaciousness in the street and assists its visual compatibility with the surrounding houses. On this basis I consider the removal of rights under class B would be reasonable, as the condition would not prevent development in the roof, but would bring it under planning control.
24. Notwithstanding this, there is sufficient space around the proposal, and the design of the proposed house below roof level is not so close to the mass and proximity constraints in terms of compatibility with the surrounding context, as to make the withdrawal of rights under class A (the enlargement, improvement or other alteration of a dwelling house) reasonable or necessary. Similarly, I do not see the necessity to restrict the insertion of roof lights or other development permitted under class C (any other alteration to the roof of a dwelling house). Nor would it be reasonable, given the provisions under class A, and the amount of first floor wall already including openings, to restrict the insertion of first floor windows.
25. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should succeed.

Patrick Whelan

INSPECTOR