

Appeal Decision

Site visits made on 5 September 2016 and 19 October 2016

by Joanna Reid BA(Hons) BArch(Hons) RIBA

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

Decision date: 24 October 2016

Appeal Ref: APP/M3645/W/16/3147935

74 Harestone Hill, Caterham, Surrey CR3 6DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr James Caldwell of Turnbull Land against the decision of Tandridge District Council.
 - The application Ref TA/2015/2117, dated 30 November 2015, was refused by notice dated 1 March 2016.
 - The development proposed is demolition of the existing buildings and the erection of two blocks of 20 apartments (3 x 1 bed and 17 x 2 bed) with associated access and parking.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted as an outline planning application with access and layout for consideration at this time, and with appearance, landscaping and scale, hereinafter referred to as the reserved matters, for future consideration.
3. Notwithstanding the address given on the application form, the appeal site includes land at 72 and 74 Harestone Hill, as shown on the application plans, which are the location plan and plan number 914:1050/PL202. The other plans that were submitted with the application are for illustrative purposes only.

Main issues

4. The main issues are the effect that the proposal would have on:
 - the character and appearance of the surrounding area,
 - biodiversity interests within and near the site with regard to slow worms,
 - the living conditions of the occupiers of 76 Harestone Hill with regard to noise and disturbance, and
 - the living conditions of the occupiers of 24 Loxford Road with regard to privacy.

Reasons

Character and appearance

5. The roughly L-plan appeal site is within the urban area of Caterham on the west side of Harestone Hill, where the land slopes steeply down to roughly

west. It is within the Valley and Eastern Valley Slopes (Area D) Character Area identified in the *Tandridge District Council Harestone Valley Design Guidance Supplementary Planning Guidance* (SPD), which notes that the eastern valley slopes are very prominent. Close by, the area is mainly characterised by fairly regularly spaced detached mainly 2-storey dwellings, including good-sized Victorian-style villas, which are mostly set back a similar distance from the roads. There are also some less conspicuous groups of dwellings arranged in culs-de-sac. Mature trees and shrubs along boundaries and in gaps between the buildings contribute to the generally wooded character of the valley slopes, and most cars are well hidden by landscape features or parked in garages.

6. The 2 existing dwellings and their outbuildings at 72 and 74 Harestone Hill would make way for 2 separate flats blocks providing a total of 20 residential flats. As some of the larger villas have been subdivided, and there are more recent blocks of flats further north, the proposed flats could be acceptable.
7. The scheme would be reached by the 2 existing accesses, and the fronts of the flat blocks would respect the general building line on this side of Harestone Hill. The flats blocks would probably be about 3 storeys tall, although their upper floor could be contained within the roof to reflect the generally 2-storey development nearby. The blocks could also be cut into the sloping site to reduce their scale in the Harestone Hill street scene. However, due to their considerable width and depth, their potential bulk, the large extent of the hard-surfaced areas for drives and parking at the front, side and rear, and the unneighbourly relationships with the adjoining dwelling at 66 Harestone Hill, and the back garden of the dwelling at 24 Loxford Road, the scheme would be harmfully at odds with the spacious low density character in the area.
8. Moreover, due to the relatively narrow gaps between the flat blocks and between the flat blocks and the side boundaries, the development would look squeezed-in, so it would be out of keeping with the Harestone Hill street scene. As 76 Harestone Hill is said to be a converted coach house, its siting near the road would not be unexpected. By contrast, due to its scale and its siting very close to the road, the proposed shared refuse compound would look unacceptably incongruous in the Harestone Hill street scene.
9. Whilst there are few trees within the site at present, the modest scale of the existing bungalow and chalet dwelling have little impact in views from the opposite side of the valley because their modest forms are seen against the backdrop of the tall trees behind them. By contrast, due to their width, and their likely scale and bulk, the flats blocks would obstruct much of the present view of those trees across much of the width of the site. Thus, the existing wooded character of the eastern valley slope would be harmfully eroded.
10. Whilst the footprint of each flat block would be comparable to those of the extended villas at 66 and 84 Harestone Hill, the latter buildings are on wider plots so there is much greater spaciousness around the original villa buildings. Both also have much mature vegetation about them in contrast to the considerable hard-surfaced areas proposed at the site. Thus, the scheme would fail to reflect the 'pavilion' siting of the Victorian-style villas in good-sized leafy grounds, which contribute positively to local distinctiveness. As the closer-spaced pairs of semi-detached houses fronting Harestone Hill on the other side of Loxford Road were permitted in about 2006 under previous local and national policy, they provide little support for this harmful scheme.

11. Therefore, I consider that the proposal would harm the character and appearance of the surrounding area. It would be contrary to Policy CSP 18 of the *Tandridge District Core Strategy* (CS) and Policy DP7 of the *Tandridge Local Plan Part 2: Detailed Policies 2014-2029* (LP) which seek high quality design and for development to integrate effectively with its surroundings, CS Policy CSP 19 which seeks a density of 30 to 55 dwellings per hectare unless the design solution for such a density would conflict with the local character and distinctiveness of an area, where a lower density is more appropriate, LP Policy DP8 which aims for proposals to be appropriate to the surrounding area in terms of size and scale, and to maintain or enhance the character and appearance of the area, and guidance in the SPD. It would also be contrary to the *National Planning Policy Framework* (Framework) which aims to take account of the character of different areas.

Biodiversity

12. The appellant's Ecological Scoping and Bat Survey concluded that there is no potential within the survey area for use by protected species except for the possibility of slow worms in the garden of 72 Harestone Hill. Amongst other recommendations, it advised that a survey for slow worms will be required.
13. The appellant's ecological consultant has since advised that reptile translocation could take place, as there appears to be room on the site to enable the proper habitat to be created. He adds that there is room for a small number of animals, but they will need to be translocated, and any receptor site will need to be fully and properly protected prior to the commencement of, and during any development activities, and that a longer term management plan would be necessary. However, as landscaping is a reserved matter, there would be no certainty that the unspecified area referred to would be suitable or available for this purpose.
14. Thus, the proposal is contrary to Framework paragraph 165, which explains that planning decisions should be based on up-to-date information about the natural environment and other characteristics of the area. It is also contrary to ODPM Circular 06/2005 *Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system* (the Circular), which states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. As no exceptional circumstances have been put to me, this is not a matter that could be dealt with by the imposition of a planning condition.
15. I consider that there is insufficient evidence to show that there is no reasonable likelihood that protected species, specifically slow worms, or their habitats, on or near the site would not be adversely affected by the proposal. As it has not been shown that the proposal would not harm biodiversity interests on or near the site, it is contrary to CS Policy CSP 17 and LP Policy DP19 which aim to protect biodiversity, the Circular, and the Framework which seeks to contribute to conserving and enhancing the natural environment.

Noise and disturbance

16. The dwelling at 76 Harestone Hill is close to the common boundary with the site, part of it adjoins that boundary, and its patio and fairly narrow garden

extends along that boundary at the back. Beyond the width of the nearest parking space, which would be parallel to that dwelling, the drive would give the only access and egress to and from about 13 parking spaces at the side and back of the flats. The drive would be below the ground floor level of the neighbouring dwelling at 76 Harestone Hill, but at its closest it would only be a few metres away. So, the comings and goings of the future occupiers, to and from the many parking spaces at the side and back of the proposal, manoeuvring into nearby parking spaces, and driving along the drive, at any time of the day or night, would cause noise and disturbance to the occupiers of 76 Harestone Hill in the rooms at the back of their dwelling and in their back garden close to their home, where they would reasonably expect to enjoy the most peace.

17. Although there is an existing parking and turning area near the common boundary at 74 Harestone Hill, it only serves that one dwelling, and it is presently partly shielded by the outbuilding close to the boundary with 74 Harestone Hill. The modest garage block at 84 Harestone Hill is sited further away, beyond the end of the back garden at 76 Harestone Hill. So, the noise and disturbance associated with the use of these existing areas would reasonably be expected to be much less than the access, egress and parking arrangements for the proposal. Furthermore, without details of its design and performance, it would not be reasonable to impose a condition for an acoustic fence to mitigate that harm.
18. Therefore, I consider that the proposal would harm the living conditions of the occupiers of 76 Harestone Hill with regard to noise and disturbance. It would be contrary to CS Policy CSP 18 and LP Policy DP7 which aim for development to not significantly harm the amenities of occupiers of neighbouring properties by reason of noise, traffic and any other adverse effect. It would also be contrary to the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Privacy

19. Because of the siting of the dwelling and its back garden at 24 Loxford Road, and the downward fall towards the back of the site, oblique views into rooms at the back of that dwelling and direct views into its back garden can presently occur from the decking at the back of 72 Harestone Hill. However, there is little landscaping by the common boundary to interrupt such views. So, the dwelling and its back garden at 24 Loxford Road do not benefit from the high levels of privacy that could be expected in the locality.
20. Due to the orientation of the nearby flats block, and having regard to the benefit of views from it across the valley, one or 2 flats on each floor would be likely to have habitable rooms facing towards the side boundary of 24 Loxford Road. Even so, the windows could be sited away from the northern corner of the flats block, and the balconies shown on the illustrative plans could be omitted. There would also be sufficient distance between the nearer flats block and the dwelling at 24 Loxford Road to prevent harmful overlooking, and the oblique angle of view at the closest points would make such views less likely. There would also be some scope in the landscaping scheme, to improve the privacy in parts of the neighbouring back garden at 24 Loxford Road.
21. The occupiers of 24 Loxford Road could experience a greater perception of being overlooked due to the increased number of dwellings, the potential scale

of development and its closer relationship to the common boundary. However, this has been taken into account in my consideration of the first main issue.

22. Thus, I consider that the proposal would not harm the living conditions of the occupiers of 24 Loxford Road with regard to loss of privacy. It would satisfy CS Policy CSP 18 and LP Policy DP7 which aim for development to not significantly harm the amenities of occupiers of neighbouring properties by reason of overlooking, and the Framework.

Other matters

23. The need for the new homes and CS Policies CSP 2 and CSP 3 were not concerns of the Council in its reasons for refusal. As the emerging Local Plan is at a fairly early stage, and the objectively assessed need identified in its evidence base has yet to be tested or moderated against relevant constraints, such as the Green Belt, I see no reason to disagree. Even so, whilst 18 more homes within the urban area would be a public benefit that would weigh in favour of the scheme, it would be substantially outweighed by the harm that has been identified in the first 3 main issues.
24. Furthermore, the Framework advises that the 3 mutually dependent social, economic and environmental roles of sustainable development should be sought jointly and simultaneously. Whilst the proposal would achieve social gains including new homes, and economic benefits including construction jobs and the New Homes Bonus, they would not outweigh the environmental harm to the character and appearance of the area, biodiversity and the living conditions of the occupiers of 76 Harestone Hill that the proposal would cause. Therefore, the proposal would not amount to sustainable development.

Conclusions

25. I have found that the proposal would not harm the living conditions of the occupiers of 24 Loxford Road with regard to privacy. However, the harm that the proposal would cause to the character and appearance of the surrounding area, biodiversity interests on or near the site, and the living conditions of the occupiers of 76 Harestone Hill with regard to noise and disturbance, are compelling objections to the scheme. For the reasons given above and having regard to all other matters raised, the appeal fails.

Joanna Reid

INSPECTOR