

Appeal Decision

Site visit made on 21 September 2016

by Megan Thomas Barrister-at-Law

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

Decision date: 27 October 2016

Appeal Ref: APP/L3625/W/16/3149599

Land off Church Road, Horley, Surrey RH6 7EY

- 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 Paul Bignall against the decision of Reigate and Banstead Borough Council.
 - The application Ref 15/02809/F, dated 10 December 2015, was refused by notice dated 31 March 2015.
 - The development proposed is the "erection of 3 bed dwelling and double garage, with associated hard standing and garden landscaping".
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Decision

1. The appeal is dismissed.

Main Issues

2. There are four main issues in the appeal as follows:
 - the effect of the proposal on the living conditions of the occupants of 71 and 73 Church Road with regard to noise and disturbance.
 - the effect on the character and appearance of the area
 - the impact of the loss of one mature tree
 - whether an affordable housing contribution is appropriate

Reasons

Living conditions

3. The appeal site is part of the rear garden of nos 7 and 9 Brighton Road (and is also slightly within land to the rear of no.11) and includes a strip of land off Church Lane in order to facilitate pedestrian and vehicular access. It is a generally level site and sits within a triangle of neighbouring properties of Church Road to the north west, Brighton Road to the south east and St Bartholomews Church (which is listed) to the west. Part of Church Road and a
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small part of the appeal site is within the Church Road Horley Conservation Area.

4. The proposed development would include demolition of the existing concrete garage building and the erection of a detached double garage and an L-shaped two storey house on the plot. The site would be accessed from Church Road using the existing dropped kerb and it is proposed that there would be power-operated swing gates very approximately in line with the rear elevation of 73 Church Road also known as Mallow Tree Cottage.
5. The main entrance door to 71 Church Road faces the existing garage and so would face the proposed access way. The site is only about 0.6m away from the flank elevation of no.71 and so, notwithstanding that there could be some boundary treatment, vehicles would pass in very close proximity to that main entrance and would be reasonably intrusive. Furthermore, the access road would extend along the full southern boundary of the garden of no.71 and I consider that such proximity would result in undue noise and disturbance for the occupants of that property.
6. 73 Church Road has about 5 windows/doors on the elevation that would face the access road. Again, the separation distance between the Cottage and the proposed access road is not generous and the road would extend down most of the length of no.73's rear garden. I consider that vehicles passing and repassing along the access road would cause unacceptable noise and disturbance to the occupants of no.73. Traffic movements associated with the existing single garage are likely to be of a much less disturbing nature than those generated by the proposed development. Vehicles associated with the proposed development might also disturb enjoyment of the gardens of both the properties when they are manoeuvring in or around the proposed double garage and hardstanding area of the development.
7. The possibility of an alternative access onto Brighton Road has been referred to, given the extent of the appellant's landownership. However, it is not part of the current appeal before me. I do not have the evidence to fully assess the merits of an alternative and the proposed layout of development in the appeal before me does not lend itself easily to vehicular access from Brighton Road.
8. Therefore, on this first main issue, I conclude that the proposal would unacceptably and seriously harm the living conditions of the occupants of 71 and 73 Church Road by reason of noise and disturbance and would therefore be contrary to policy Ho9(v) of the Reigate and Banstead Borough Local Plan (adopted 2005) 'LP'.

Character and appearance

9. Policy Ho14 of the LP states that proposals for housing developments involving back garden land will normally be required to comply with a number of criteria including maintaining the general pattern and form of development in the area, ensuring that the proposed plot sizes and spacings between buildings reflects that predominating in the surrounding area, and that existing landscape features are retained. Policy Ho13 deals with maintaining the character of an area and with infill development particularly in mind, it requires proposals to conform to the existing pattern of development in the surrounding area. Whilst these policies date from about 2005, I see no reason why some weight should

not attach to them and the appellant does not expressly disagree with that. Furthermore, there is no reference to whether or not the Council has a five year housing land supply.

10. The general pattern of development in the area is linear, with properties on Brighton Road generally having generous back gardens. Residential development on Church Road is also generally linear (although on the northwest side at the western end, a backland development has taken place). The appeal proposal would therefore fail to conform to this strongly linear pattern. It would also reduce the plot sizes of nos 7 and 9 Brighton Road making them smaller than the predominating plot sizes in the immediate area.
11. Whilst the proposed access road would not be wide, would be close to adjacent dwellings and would not allow much scope for landscaping, I am not convinced that it would positively harm the character or appearance of the Conservation Area. I am mindful of the statutory duty on me in respect of this heritage asset, however, provided that appropriate materials were used, and that a gate was in keeping with the character of the Conservation Area then creation of an entrance to the site would preserve the Conservation Area in my view. The appellants suggest that the removal of the garage coupled with the proposal would be a benefit to the Conservation Area but I consider the overall effect would be neutral.
12. On this second main issue, I have borne in mind the need to make effective use of urban land but nevertheless I conclude that the proposal would harm the character and appearance of the area by failing to reflect the existing pattern of development and it would conflict with policies Ho9, Ho13 and Ho14 of the LP. As to the Conservation Area itself, I find that its special heritage-related character and appearance would not be harmed.

Tree Loss

13. It is proposed to remove a single mature Sycamore tree to facilitate the development. The tree is not within the Conservation Area but parts of it are visible from it and it is attractive in its own right. It is not the subject of a Tree Preservation Order. There is a second mature Sycamore to the west of, and close to, the one that would be lost if development occurred. If the tree is felled, the second Sycamore would be seen in similar views from the Conservation Area. Whilst there would be a difference in view, it would not be material. As a result I consider that neither the setting of the Conservation Area nor the wider visual amenity would not be harmed.
14. On this issue, I conclude that the removal of the proposed tree would not harm the setting of the Conservation Area or the wider area and would not be in conflict with policy Pc4 of the LP.

Contribution to affordable housing

15. An undated signed section 106 unilateral undertaking has been submitted as part of the appeal which would offer a financial contribution towards the provision of affordable housing. Notwithstanding that, the appellant argues that it is not appropriate to require a section 106 obligation in this case because PPG advice has indicated affordable housing contributions should not be sought from housing developments of 10-units or less, and which have a maximum

combined gross floorspace of no more than 1000sqm. A Written Ministerial Statement 'WMS' dated 28 November 2014 gave similar advice.

16. The Council consider that in the particular circumstances that pertain to their area a contribution towards affordable housing should be made notwithstanding the advice in PPG and elsewhere. They say, in summary, that owing to the up-to-date development plan requirement of policy CS15 of the Reigate and Banstead Local Plan: Core Strategy 2014 (requiring the provision of affordable housing and aiming to meet a target of delivering a minimum of 1500 affordable homes by 2027), the particular housing need in the Borough and the fact that no suggestion is made that such a contribution would stall the proposed development, a financial contribution should be made.
17. It is necessary to weigh up any conflict between the development plan and other material considerations and in this case looking at the evidence of the Council on a cumulative basis, it does not outweigh the substantial weight that I attach to the advice in PPG and in the WMS. I conclude that the absence of a contribution to the provision of affordable housing would not, in itself, be sufficient to render the proposal unacceptable. Nonetheless, this does not alter my findings in respect of the main issues in this case, as outlined above.

Conclusion

18. Having taken into account all representations, for the reasons given above, I dismiss the appeal.

Megan Thomas

INSPECTOR