

Appeal Decision

Site visit made on 25 October 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 3rd November 2016

Appeal Ref: APP/L3625/W/16/3154418

Land rear of 77-87 Monson Road, Redhill, RH1 2EX

- 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 The Amos Foundation against the decision of Reigate and Banstead Borough Council
 - The application Ref 15/00081/F, dated 15 January 2015, was refused by notice dated 3 May 2016.
 - The development proposed is the demolition of No 83 and erection of 4 x 4 bedroom dwellings.
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Decision

1. The appeal is allowed.

Main Issues

2. The main issues are:
 - the effects of the proposal on the character and appearance of the area;
 - the effects of the proposal on the living conditions of the occupiers of 52 Colesmead Road with particular regard to overlooking;
 - whether the proposal would make an adequate contribution to the supply of affordable housing in the area.

Reasons

Character and Appearance

3. The appeal proposal would involve the demolition of the detached two storey house at No 83 in order to provide access to a development of four dwellings to the rear of that property. The appeal site broadens to take in land behind the rear gardens of Nos 77 to 87. The proposal would be laid out as two pairs of semi-detached two storey dwellings. There would be spaces some 2.3m wide between the flank walls of the new buildings and the external side boundaries of the site. There would also be a gap of around double that distance between the two new buildings. This spacing is, if anything, slightly greater than exists between most of buildings fronting the adjoining section of Monson Road.
 4. Each dwelling would have two car parking spaces arranged in pairs in the area in front of the new buildings. This space would also provide a turning area for vehicles. However, reasonably generous areas would be available for planting between each pair of parking spaces and between the proposed access and the boundaries with the adjoining properties. A narrower area of planting would be
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provided immediately in front of the new buildings. Details of the planting in these areas and its maintenance could be secured by condition.

5. Consequently, I consider that the proposed development would not be dominated by parking or have a cramped layout. The scale and form of the proposed dwellings would be comparable with the nearby properties on Monson Road. On small sites such as this, these considerations are more helpful indicators of the compatibility of the proposal with its surroundings than the measures of density referred to by neighbouring occupiers.
6. The dwelling to be demolished has no particular architectural merit and the proposal would allow for planting on both sides of the new driveway. Other developments to the rear of houses in Monson Road, including the larger scheme at Temple Wood Drive, are accessed in a similar manner with a driveway between dwellings. As such, I consider that the layout of the proposal would be in keeping with the pattern of surrounding development.
7. Overall therefore, I find that the proposal would not be harmful to the character and appearance of the area. Consequently, it would accord with Reigate and Banstead Borough Local Plan 2005 (LP) Policies Ho9, Ho13 and Ho14 insofar as they require residential development to conform to the pattern of development in the area, to be laid out with spacing between buildings that reflects the surrounding area and to incorporate integral landscaping. Nor would the proposal conflict with the Council's Local Distinctiveness Supplementary Planning Guidance to the extent that it has similar aims.

Living Conditions

8. The rear walls of the proposed dwellings would have windows at first floor level facing towards the rear garden of 52 Colesmead Close. However, the windows would be at least 10m away from the common boundary and a considerably greater distance away from the more private area of the neighbouring garden adjoining the house. Having regard to this separation distance, I consider that the proposal would not lead to a material loss of privacy for the occupiers of No 52 and would not, therefore, be harmful to their living conditions. Accordingly, the proposal would comply with LP Policies Ho9, Ho13 and Ho14 insofar as they require residential development to not seriously affect the amenity of existing properties by overlooking or loss of privacy.

Affordable Housing

9. Policy CS15 of the Reigate and Banstead Local Plan Core Strategy 2014 seeks to secure a minimum of 1500 new affordable housing units in the period 2012 to 2027. For developments of 1 to 9 dwellings the policy states that the Council will negotiate to achieve a financial contribution broadly equivalent to the provision of 10 percent affordable housing. However, following a Court of Appeal ruling, the Written Ministerial Statement (WMS) dated 28 November 2014 has been confirmed as Government Policy to be read alongside the National Planning Policy Framework (the Framework). The provisions of the WMS are reflected in the Planning Practice Guidance (PPG) which states that local planning authorities should not seek affordable housing contributions in connection with developments of less than 10 dwellings (paragraph Reference ID: 23b-031-20160519). The aim of the policy is to alleviate the disproportionate burden of developer contributions on small-scale developers.

10. Since the proposal falls below the WMS threshold, the appellant considers that a financial contribution towards affordable housing is unnecessary.
11. The Council acknowledges that the PPG is a material consideration, but considers that it is outweighed by the particular need for affordable housing in the Borough. The Council's statement refers to a scheme of seven additional units which, clearly, does not apply to the current proposal. Nevertheless, it has also produced a Position Statement (PS) to support its approach to the affordable housing issue. In essence, the PS finds that there is a pressing need for affordable housing in the Borough with a requirement for at least 366 additional units per annum. However, the Council has not been able to secure significant affordable housing from large sites due to challenges to the viability of such provision. It, therefore, places particular emphasis on securing contributions from smaller sites and advises that there have been no cases where the viability of providing such contributions has been challenged.
12. In its review of recent housing completions table 3 of the PS categorizes smaller sites as less than 100 units and defines a separate category for developments by private individuals. The figures do not, therefore, allow a direct analysis of sites of falling within the WMS threshold of 10 units or fewer. Nevertheless, the scale of the appeal proposal suggests that it would have more in common with development by private individuals than with sites of up to 100 dwellings in terms of its capacity to absorb the requirement for financial contributions.
13. Table 3 of the PS shows that the number of completions private individuals and small sites increased considerably in 2015/16 compared with immediately preceding years. Allowing for project time lags, the WMS was likely to have been in operation in 2015/16. Whilst the available information is limited, it does appear to show that the WMS has had the effect intended by the Government and increased the supply of housing from smaller sites. I recognise that the Council has sought to reduce the burden of financial contributions on small developers. Nonetheless, I am not persuaded that the requirement for financial contributions towards affordable housing required under Policy CS15 has not affected the viability of smaller sites. A healthy supply from this source would contribute to the housing needs of the Borough in accordance with the WMS and Framework paragraphs 47 and 50.
14. The PS refers to an appeal decision in Elmbridge¹ where the Inspector found that the requirement for affordable housing contributions from smaller sites outweighed the WMS. However, in that Borough, the affordability ratio was greater than in Reigate and Banstead (21.5, rather than 15.4 times average lower quartile net income) and a greater proportion of the total housing supply appears to be derived from smaller sites. As such, the circumstances of the two Boroughs are not directly comparable. My attention has been drawn to other appeal decisions which deal with affordable housing contributions on small sites, although they appear to pre-date the publication of the PS².
15. On the evidence available therefore, I find that benefit of increasing the supply of housing supply intended by the WMS carries very considerable weight and justifies determining the appeal other than in accordance with CS Policy CS15. Consequently, the absence of Planning Obligation dealing with affordable housing does not weigh against the proposal in this case.

¹ Appeal Ref: APP/K3605/W/16/3146699

² Appeal Refs: APP/L3625/W/16/3144059 and APP/L3625/W/15/3141195

Other Matters

16. Although there are a number of small trees and outbuildings on the site, there is no substantive evidence to show that it has particular bio-diversity value or that it acts as a buffer to train or traffic noise. Nor is the site a publicly accessible green space.
17. The front of the proposed dwellings would be around 29m from the rear walls of the adjoining properties on Monson Road. Although the house on plot 1 would be some 20m at its closest corner from a residential annex to the rear of No 75, it would not be directly behind the annex. These distances would be sufficient to ensure that the proposed two storey dwellings would not adversely affect the living conditions of the occupiers of those properties by reason of loss of sunlight, light pollution, loss of privacy or an overbearing effect. Other change to the private view from a window is not, of itself, regarded as a planning matter.
18. The proposal would result in vehicle movements to the rear of the Monson Road houses. However, having regard to the separation distances set out above, and the provision of boundary fencing, which can be secured by condition, I consider that the relatively small number of additional movements would not adversely affect the living conditions of neighbouring occupiers through noise or disturbance. The boundary fencing would also provide a secure enclosure for the rear gardens of neighbouring properties and would provide effective separation between the proposed refuse and recycling collection facility and the neighbouring property.
19. The construction of the proposed development may well lead to short term disturbance for neighbouring occupiers. However, this is an almost inevitable consequence of new development in many locations and is not, of itself, a reason to withhold planning permission. I will impose a condition to control construction activities in order to minimise any disturbance.
20. I saw on the site visit that there is considerable demand for parking along Monson Road. However, there is no substantive evidence to indicate that the road experiences particular highway safety problems. The 3m wide driveway would allow an emergency vehicle to access the proposed dwellings and provision would be made for refuse and recycling collection close to Monson Road. I consider that the proposed provision of two parking spaces per unit would be reasonable for the size of the houses proposed and understand that it accords with the Council's parking standards. I also note that the highway authority did not object to the proposal. As such, I consider that the proposal would not pose a risk to highway safety.
21. Whilst the proposal would increase the amount of hard surfacing at the site, there is no firm evidence to suggest that an appropriately designed drainage scheme would not deal adequately with surface water run-off. The appeal site is not within a flood risk zone. Therefore, I am not persuaded that the proposal would increase the risk of flooding.
22. My decision is based on the planning merits of the proposal. Other considerations, including the aims of the appellant, the tenancy of No 83, the effect on property values and any covenant which may exist on the land, are not matters which I can take into account.

Conditions

23. The Council has suggested a list of 13 conditions. A number of the conditions include reference to another site and the plans listed in suggested condition 2 do

not relate to the appeal proposal. I have, therefore, amended those references. Moreover, suggested conditions 3 (existing and proposed ground levels), 9 (closure of an existing access) and 11 (obscured glazing in first floor windows) are not applicable to the appeal proposal. I have omitted these conditions. Clause (f) of suggested condition 6 would require a commitment to funding any necessary repairs to the highway. Paragraph Reference ID: 21a-005-20140306 of the PPG advises against positively worded conditions requiring the payment of money. I have, therefore, omitted this clause. With amendments for clarity, I find that the remaining conditions meet the tests set out in the PPG.

24. A condition specifying the approved plans is necessary in the interests of certainty. Conditions controlling the external materials to be used and the details, implementation and maintenance of the landscaping scheme are required to safeguard the character and appearance of the area. A condition controlling the details and implementation of boundary fencing is necessary for the same reason and to protect the living conditions of neighbouring occupiers.
25. Conditions requiring the provision of the access driveway and parking and turning areas are required in the interests of highway safety. Exceptionally in view of the location of the site to the rear of existing houses, conditions withdrawing permitted development rights for extensions, roof alterations and the insertion of first floor windows are necessary to safeguard the living conditions of neighbouring occupiers.
26. A condition requiring the provision and implementation of a Construction Management Plan is necessary in the interests of highway safety and to protect the living conditions of neighbouring occupiers.

Conclusion

27. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

Schedule of conditions attached to Appeal Ref: APP/L3625/W/16/3154418 Land rear of 77-87 Monson Road, Redhill, RH1 2EX

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J001947/PL01C, J001947/PL02B and J001947/PL03C.
- 3) No development shall take place until written details of the materials to be used in the construction of the external surfaces, including fenestration and roof, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall commence until a scheme for the landscaping of the site, including the retention of existing landscape features, has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard and soft landscaping, including any tree removal/retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of

plants, noting species, plant sizes and proposed numbers/densities and an implementation and management programme.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development hereby approved or in accordance with a programme agreed in writing with the Local Planning Authority.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, shrubs of the same size and species.

- 5) The development shall not be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before the occupation of the development hereby permitted.
- 6) The development hereby approved shall not be occupied until the proposed vehicular access to Monson Road has been constructed in accordance with the approved plans.
- 7) The development hereby approved shall not be occupied until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking/turning areas shall be retained and maintained for their designated purposes.
- 8) 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 extensions or alterations to the dwellings or their roofs permitted by Classes A, B or C of Part 1 of the Second Schedule of the 2015 Order shall be constructed.
- 9) 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 first floor windows other than those expressly authorised by this permission shall be constructed.
- 10) No development shall commence until a Construction Method Statement, to include details of:
 - (a) parking for vehicles of site personnel, operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials;
 - (d) a programme of works (including measures for traffic management);
 - (e) measures to prevent the deposit of materials on the highway;
 - (f) on-site turning for construction vehicles;

has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.