
Appeal Decision

Site visit made on 18 October 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 8th November 2016

Appeal Ref: APP/L3625/W/16/3153860

7 Beech Road, Reigate, Surrey RH2 9LS

- 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 James Smith of Nutfield Homes against the decision of Reigate and Banstead Borough Council.
 - The application Ref 15/00566/F, dated 13 March 2015, was refused by notice dated 20 May 2016.
 - The development proposed is erection of a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Concern has been raised that a third party landowner may not have been notified by the applicant/appellant of the submission of an application/appeal affecting its land, under the terms of Section 65 of the Act. As part of the appeal it has been confirmed to the Planning Inspectorate that notices have been served on the third party landowner and I am therefore content that the requirements of Section 65 of the Act have been fulfilled.
3. The application is accompanied by a Unilateral Undertaking made under Section 106 of the Act, obligating the appellant to make a financial contribution of £19,015.00 towards the provision of affordable housing prior to the commencement of the development. As the availability or otherwise of an affordable housing contribution is not a reason for refusal I shall return to this obligation as an 'other matter' below.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The development would involve the construction of a dwelling with two floors of accommodation and a detached double garage within the rear half of Number 7 Beech Road's (No 7) garden. This dwelling would be accessed via a track that passes between 6 and 8 Brokes Road and it currently serves 6A Brokes Road (No 6A).
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6. Within the site and along parts of its boundaries there are various trees of mixed species, including two very mature Eucalyptus trees (T1 and T2¹) that are subject to a tree preservation order (TPO). Trees T1 and T2 together with the trees identified as T4 (a Lawson Cypress), T5 (a Hazel), T6 (a Field Maple), T9 (a Common Ash) and T10 (a Common Ash) would be removed to facilitate the development and replacement planting would be undertaken as mitigation for the removal of those trees. Tree T1 is subject to honey fungus and has been assessed as having a life expectancy of less than 10 years, while tree T2, because of its height (22 metres), has been assessed as being susceptible to windthrow (uprooting). Under the quality rating classification system for trees identified in British Standard BS 5837:2012² (the BS) the previously mentioned trees have individually been classified in the appellant's arboricultural report as being in the following categories:
- Category B – moderate – trees T2, T5 and T6;
 - Category C – low – trees T4, T9 and T10; and
 - Category U – poor quality with limited life expectancy – T1.
7. The Council accepts that structural integrity of tree T1 is of concern and that if that tree were to be removed and if T2 is not felled then works would be required to the latter's crown reducing the significance of its amenity value.
8. The site, like many of the rear gardens of the properties in Beech Road and the surrounding streets, has a sylvan character and it lies just outside the Pilgrims Way and Beech Road Residential Area of Special Character (RASC) that has been designated by the Council under the provisions of saved Policy Ho15 of the Reigate and Banstead Borough Local Plan of 2005 (the Local Plan). The removal of the trees associated with this development would significantly alter the site's appearance and the part it plays in contributing to the area's sylvan character, within what is a transitional zone just beyond the RASC. In this respect many of the rear garden trees in this area are visible from the roads, in the spaces between the individual properties, and the trees that are on the site, to varying degrees, are visible from further afield, most particularly trees T1 and T2.
9. I recognise that the long term retention of trees T1 and T2 is in doubt, however, the siting of the proposed garage, tight to the site's north western corner, would necessitate the removal of tree T10, a middle aged Ash, with a useful life expectancy of in excess of 40 years. While tree T10, as an individual specimen, has a quality rating towards the lower end of the BS classification, it is nevertheless contributing to the area's sylvan character, which, as I have indicated above, would be diminished as a consequence of the removal of the trees associated with the development.
10. The dwelling would have an extensive forecourt drive, capable of accommodating a number of parked cars. The development would therefore not be dependent upon the provision of the double garage necessitating the removal of tree T10. While some new planting is proposed along the site's western boundary, which would supplement the hedge that is just outside the site (albeit the long term retention of this hedge would not within the

¹ Identified as trees T1 and T2 in the arboricultural report prepared by ACS Consulting and all subsequent tree number references are also taken from this report

² 'Trees in relation to design, demolition, and construction – Recommendations'

appellant's control), the existing and new planting would only provide partial mitigation for the loss of tree T10 and then only in the longer term. I therefore find that the provision of the garage and the associated removal of tree T10, when taken with the removal of the other trees within the site and the limited effect the compensatory replacement planting would have, would result in this development being harmful to the character and appearance of the area.

11. It has been submitted that a wall could be erected along the site's boundary under the permitted development (PD) rights regime and its installation would have a similar effect on the site's vegetation. While those PD rights could be used, I am required to determine the appeal development on its merits. In any event I attach limited weight to the possible exercise of the PD rights as this would leave a piece of isolated land, given that a wall has already been erected along the boundary between the site and No 7's retained rear garden.
12. I am mindful of the planning permission granted by the Council³ for two dwellings to the north of the appeal development, a scheme which would in part occupy the appeal site and would appear to involve the removal of tree T10. However, the plans for this other scheme that have been made available to me suggest that it would involve less tree removal and I therefore consider that the two developments are not comparable with one another in terms of their effect on the area's sylvan character.
13. While I have identified concerns about the effect the garage would have upon the site's sylvan appearance, the dwelling of itself would be appropriately scaled for a plot of this size. In this respect I consider the development would not be cramped. I also accept that the design of the house would be in keeping with the surrounding area.
14. For the reasons given above I conclude that the development would unacceptably harm the character and appearance of the area. The development would therefore be in conflict with saved Policies Ho9, Ho13 and Ho14 of the Local Plan and Policy CS1 of the Reigate and Banstead Local Plan Core Strategy of 2014 (the Core Strategy) in that it would fail to be laid out and designed to make the best use of its physical characteristics in terms of tree retention and the promotion of local distinctiveness. There would be some conflict with the Council's Local Distinctiveness Design Guide of 2004 in that insufficient space for soft landscaping as mitigation for the loss of trees would be provided.
15. Although the reason for refusal cites conflict with Policy Ho15 of the Local Plan and Policy CS4 of the Core Strategy, as the latter specifically concerns development with RASCs, while the former addresses development within valued townscapes and the historic environment/heritage assets I consider neither of them to be relevant to this case.

Other Matters

16. The need or otherwise for the appellant to make an affordable housing contribution, by means of a planning obligation has been raised by the appellant and the Council. This being because of the obligation that the appellant has entered into and the now extant national policy threshold for

³ Planning Permission 15/00595/F

seeking such contributions. The national policy being that affordable housing contributions should not be sought in the case of developments for 10 dwellings or less. This policy threshold having first been introduced in a Witten Ministerial Statement dated 28 November 2014 and is now, further to legal proceedings, set out in the Planning Practice Guidance⁴.

17. This matter was not subject to the reason for refusal and as the appeal is to be dismissed for other reasons, as outlined in my reasoning above, I find it unnecessary for me to comment further on this matter.
18. Given the nature of the harm that I have identified I do not consider the various sections and paragraphs of the National Planning Policy Framework (Framework) referred to by the appellant, most particularly paragraphs 7, 14, 17 (the fourth planning principle), 56, 58 and 64, provide any particular support for this development. That is because the harm I have identified would make this an unsustainable form of development when the Framework is read in the round.
19. While concern has been raised about the relationship of the dwelling relative to those permitted under planning permission 15/00595/F, as the appeal is to be dismissed for other reasons, I find it unnecessary for me to comment further on this matter.

Conclusion

20. For the reasons given above the appeal is dismissed.

Grahame Gould

INSPECTOR

⁴ Most particularly Paragraph: 031 Reference ID: 23b-031-20160519 contained within the PPG's section on Planning Obligations