
Appeal Decision

Site visit made on 1 December 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 6th January 2017

Appeal Ref: APP/L3625/W/16/3155278

41 & 43 Doods Park Road, Reigate, Surrey, RH2 0PU

- 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 J Cowling against the decision of Reigate & Banstead Borough Council.
 - The application Ref 15/02609/F, dated 20 November 2015, was refused by notice dated 4 March 2016.
 - The development proposed is demolition of existing buildings and closure of vehicular accesses. Erection of detached building comprising 14 x 2-bedroom residential flats, bin store, formation of parking forecourt and erection of carport, provision of bike store, formation of new vehicular and pedestrian accesses, erection of gates to front boundary, new landscaping and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) The effect of the development on the character and appearance of the area;
 - (b) The effect of the development on the living conditions of the occupiers of Nos 37 and 39 Doods Park Road with regard to outlook and privacy;
 - (c) The effect of the development on highway safety; and
 - (d) Whether the development would make an appropriate contribution towards affordable housing provision.

Reasons

Character and appearance

3. The appeal site currently consists of two large detached properties set within spacious plots. These are set well back from Doods Park Road, reflecting the positioning of other nearby properties on the northern side of the street. A railway line is located to the rear of these properties. The immediate area is mainly characterised by large detached and semi-detached properties, although a large apartment block of post-war construction (Howard Court) is located immediately to the east of the appeal site.
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4. I accept that the development would not appear unduly cramped within its plot. The apartment building would be no closer to the eastern boundary of the site than the existing dwelling at No 43, and would be set in from the western boundary compared to the existing dwelling at No 41. The subservient western wing of the development would also assist in this regard.
5. However, the proposal would replace the two existing dwellings with a 3 storey apartment block that would span most of the width of the plot. In comparison to the surrounding properties, it would be a large structure in terms of its height, width, and depth. The development would appear excessively large in comparison to the nearby detached and semi-detached properties. The development would also be significantly taller and would have a greater depth than Howard Court, and would not be as well screened by mature trees and planting. The flat roof to Howard Court further reduces the scale of that building. Moreover, the development would be located closer to the road than other nearby properties on this side of Doods Park Road. Whilst there is not a consistent building line in this location, the positioning of the development, coupled with its size, would result in an unduly prominent development that would be out of scale with the surrounding properties.
6. The depth of the apartment building would also be significant and over 20 metres at its widest. This would be significantly greater than the depth of the adjacent properties, including Howard Court, which would add to the scale and bulk of the development. Whilst there may be apartment developments in the wider area of a similar depth, these are away from the immediate vicinity of the appeal site. The retention of a reasonably large space in front of the development would not overcome my concerns in this regard, particularly as the building would still be further forward than other nearby properties on this side of the road.
7. There is some dispute about whether the proposal would be taller than the adjacent dwelling at No 37. From the submitted plans, these would appear to be broadly similar in height. However, No 37 is set much further back from the road, and in contrast to the proposal, is sympathetic in scale to the surrounding area.
8. The appellant has also highlighted a number of large apartment developments in the wider area. However, these are mostly located on the opposite side of the railway line, or to the east of the junction with Wrays Common Road. The only apartment development in the immediate vicinity of the appeal site is Howard Court, which for the reasons set out above, does not provide a justification for the development.
9. The frontage of the site would be mostly given over to car parking and would contain 16 parking spaces, a car port, and a bin store. I accept that this area would be landscaped and subject to additional planting, however, the vast majority of this area would contain hardstanding or outbuildings. Only a small proportion of the frontage would be available for additional planting, and part of the existing hedge along the frontage would need to be removed to accommodate the revised access point. In these circumstances, the site frontage would be unduly dominated by car parking, which would be at odds with the character of the surrounding area. Whilst there is some car parking to the front of Howard Court, a much greater proportion is occupied by dense landscaping.

10. In addition, the proposed car port at the front of the site would be an uncharacteristic feature. Whilst it would break up the car parking, there are few examples of similar outbuildings in the surrounding area, in advance of the host property. Whilst No 35 has an outbuilding to the front, that property is situated at the back of the plot and the outbuilding is some distance from the road. The garages in advance of Nos 68-82 are located some distance away and on the opposite side of the road. Neither of these examples justify a car port, which would be out of keeping with the pattern of development along the northern side of Doods Park Road.
11. Paragraph 60 of the National Planning Policy Framework (NPPF) states that planning decisions should not attempt to impose architectural styles through unsubstantiated requirements to conform to certain development forms. However, in this case the development would be of an excessive height and scale. Whilst the design of the building may have been appropriate in another context, in this location it would lead to an excessively large development that would be harmful to the area.
12. Separately, I do not consider that the development would appear unduly cramped within its plot. The proposed apartment building would be no closer to the eastern boundary of the site than the existing dwelling at No 43, and would be set in from the western boundary compared to the existing dwelling at No 41. The subservient western wing of the development would also assist in this regard. However, this consideration does not alter the harm I have identified above.
13. For the above reasons, I conclude that the development would unacceptably harm the character and appearance of the area. It would therefore be contrary to Policies Ho 9, Ho 13, and Ho 16 of the Reigate and Banstead Borough Local Plan (2005), Policies CS1 and CS4 of the Reigate and Banstead Core Strategy (2014), and guidance contained in the Local Distinctiveness Guide Supplementary Planning Guidance (SPG).

Living conditions

14. The proposed apartment building would be located close to the boundaries with Nos 37 and 39. There would also be a number of upper floor windows facing these properties, and balconies would be positioned close to the boundaries of the site.
15. I accept that the proposed windows facing No 37 would not be primary windows, and could be obscurely glazed. This could be secured by condition. Similarly, privacy screens could be attached to the first floor balcony nearest to No 37 to preserve the privacy of the front garden. Any remaining views over the garden to No 37 would be oblique and not unacceptably harmful in this case.
16. With regards to No 39, the distance between the apartment building and the front windows of the property would meet the Council's minimum separation distances. In these circumstances, I do not consider that the proposed windows and balconies would have an unduly oppressive effect. In addition, the Council state that there would some overlooking to the driveway area. This area is currently used for car parking and access purposes, and No 39 is served by a separate side garden. Accordingly, any overlooking to the driveway area would not be unduly harmful in this case.

17. Separately, the proposed apartment block would be sufficiently far away from the properties fronting onto The Cedars to avoid any unacceptable overlooking or loss of privacy to these properties.
18. For these reasons, I find that there would be no unacceptable harm by way of overlooking. However, turning to the effect of the development upon the outlook from nearby properties, I note that the front garden area to No 37 is the main amenity space for the property and at present is secluded and private. The apartment building would be of an imposing scale and would be located alongside the boundary to the front garden. It would occupy a significant proportion of the shared boundary and would be oppressive and overbearing to users of the garden area. Whilst the development would have a staggered footprint, and a lower height adjacent to No 37, this would not sufficiently reduce the impact of a building of this scale. The existing boundary planting would also only provide limited screening above ground floor level.
19. I conclude that the development would unacceptably harm the living conditions of the occupiers of Nos 37 Doods Park Road with regard to an oppressive and overbearing effect. It would therefore be contrary to Policies Ho 9 and Ho 13 of the Reigate and Banstead Borough Local Plan (2005).

Highway Safety

20. The Council's third reason for refusal related to the position of the proposed vehicular access. This stated that it had not been demonstrated that adequate visibility was achievable at the proposed access point onto Doods Park Road. Subsequently, however, the appellant submitted a revised plan showing an alternative access arrangement to address this matter. The Highway Authority has confirmed that the revised plan addresses their concerns. Accordingly, the Council has indicated that it would be in a position to remove this reason for refusal. I do not consider that any party would be prejudiced by my acceptance of this plan (19 Rev B), which is located opposite to an area of rear boundary fencing.
21. Whilst the 43 m visibility splay to the east may slightly cut across third party land, this would be a very minor incursion. Any non-compliance with Manual for Streets would therefore be very limited, and I am satisfied that highway safety would not be unduly prejudiced in this case.
22. Separately, there is no evidence before me the development would lead to highway safety concerns at the junction between Doods Park road and Wray Common Road. This junction has not been identified as a source of concern by the Highway Authority, and I see no reason to take a different view.
23. I conclude that the development would not unacceptably prejudice highway safety. It would therefore be in accordance with Policy Mo 5 of the Reigate and Banstead Borough Local Plan (2005).

Affordable housing provision

24. The Council's fourth reason for refusal related to the failure to provide a contribution towards affordable housing provision, contrary to Policy CS15 of the Reigate and Banstead Core Strategy (2014). Subsequently, however, the Council stated that it was working with the appellant to agree a Unilateral Undertaking (UU) to secure this. The Council had anticipated that once this UU was agreed it would be in a position to withdraw this reason for refusal.

25. The appellant has since provided a UU relating to a financial contribution towards affordable housing provision. However, the UU is not signed by all of the relevant parties, nor is it dated on the front page. Accordingly, the document does not put into effect what is intended, and therefore carries no weight. The appellant acknowledges this and has suggested that this matter could be dealt with by condition. However, Planning Practice Guidance (PPG) states that a condition which limits the development that can take place until a planning obligation has been entered into, is unlikely to be appropriate in the majority of cases. Such a condition would require "exceptional circumstances", and "may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk".
26. No case has been made that exceptional circumstances exist that would justify a condition of this nature. Furthermore, it is clear that the development would not constitute "more complex and strategically important development". Accordingly, the use of such a planning condition would not be appropriate in this case.
27. I therefore conclude that the development would fail to make an appropriate contribution towards affordable housing provision. It would therefore be contrary to Policy CS15 of the Reigate and Banstead Core Strategy (2014), and guidance contained in the Affordable Housing Supplementary Planning Document (SPD) (2014).

Other Matters

28. There are a number of mature trees in the garden of No 37 that would be in close proximity to the development. In particular, a mature Lawson Cypress (tree T9 in the Arboricultural Impact Assessment) of significant character and landscape value would be located close to the western edge of the proposed apartment building. However, the building would be set further back from this tree than the existing dwelling at No 41 and I am satisfied that it could be retained.
29. A large mature attractive Beech Tree (tree T13) is located close to the proposed bin store at the front of the site. The Arboricultural Impact Assessment states that the incursion into the Root Protection Area (RPA) of this tree would be less than 1%. Whilst the extent of the RPA is open to interpretation and is to a certain extent a matter of professional judgement, in this case, I am satisfied the tree could be retained and note that the Council's Tree Officer did not object to the development on these grounds.
30. I have also considered the effect on tree T14 a Lawson Cypress but the tree is not of high amenity value, and makes only a limited contribution to the character of the area.
31. The development proposes 16 parking spaces, which equates to more than one space per dwelling. Whilst this may be below the Council's usual requirements, in my view it would be adequate for a scheme consisting of 2 bedroom apartments in a relatively sustainable location. It would not result in an unacceptable impact on on-street parking in this regard. I further note that neither the Council nor Highway Authority have objected to the development on these grounds.

Conclusion

32. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR