

Appeal Decision

Site visit made on 14 February 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 24 February 2017

Appeal Ref: APP/L3625/W/16/3162422
40 Blackborough Road, Reigate RH2 7BX

- 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 White, 1GCC Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/01326/F, dated 1 June 2016, was refused by notice dated 15 August 2016.
 - The development proposed is demolition of existing dwelling and erection of two detached dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr White, 1 GCC Ltd against Reigate & Banstead Borough Council. This application is the subject of a separate Decision.

Procedural matter

3. In a letter dated 21 December 2016 the Council indicated that, in light of appeal decisions in the area, and the weight given to a Written Ministerial Statement of 28 November 2014 under the title "Small-scale Developers" and national Planning Practice Guidance (the PPG) in those decisions, it no longer wished to pursue the reason for refusal relating to affordable housing and this should be "removed". I therefore do not intend to consider that issue further in this appeal decision, although I will consider the matter in relation to the application for costs.

Main Issues

4. The main issues are the effect on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 38 and 42 Blackborough Road and the proposed new dwellings in terms of outlook and privacy.
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Reasons

Character and appearance

5. The appeal site lies in an area of frontage development on the south side of Blackborough Road. Unlike the vast majority of development in the area, which is two storey in height, the appeal property is a bungalow. The bungalow is set at a slightly lower level than the road, with the land rising up gently to the rear.
6. To the east of the site are a pair of detached dwellings, 42 and 44 Blackborough Road each with a narrower frontage than the appeal site. These properties give the appearance of being two storeys from the road with fully hipped roofs, but have a dormer in the rear elevations indicating that there is accommodation in the roofspace. To the west is a two storey dwelling, No 38, which has a longer road frontage.
7. The proposal is to erect two dwellings facing the road. The eastern property, described at No 40B, would be at a similar ground level as No 42 and the western property, No 40A, would be at a slightly lower level, similar to No 38. The properties would have gables on the front elevations with triangular windows towards the top of the gables providing light for rooms in the respective roofspaces. The front elevations would be similar, but would have different fenestration arrangements.
8. The Council has published the Reigate and Banstead Local Distinctiveness Design Guide (the Design Guide). It states that its purpose is to promote better standards of urban design. As the Design Guide was subject to public consultation prior to adoption and its purpose is in accordance with national planning policy I give the document significant weight.
9. The Design Guide identifies the appeal site as lying in an area of Victorian/Edwardian development. Within this area development should echo the historic plot widths and boundaries, listed and locally distinctive buildings, respect existing building lines, and the ratio between building heights and street width.
10. The existing site is wider than in the immediate vicinity and locating two dwellings on the site would not be out of keeping with the pattern and rhythm of development in the area. However, while in absolute terms the height of the ridges would be similar to the properties on either side, the architectural treatment with the gables and triangular arrangements of the window high up in the gable adds to the apparent height of the buildings. The large expanse of brickwork between the tops of the first floor windows and the sills of the second floor windows also increases the dominance of the elevation. This means that the properties would appear to be more substantial than those on either side, top heavy and harmfully intrusive into the street scene. This means that the proposal would not echo the apparent ratio between the building height and street width found elsewhere in the immediate area.
11. Paragraph 50 of the National Planning Policy Framework (the Framework) indicates that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development. While, in line with paragraphs 60 and 63 of the Framework, planning decisions should not attempt to impose architectural styles and great weight should be given to innovative designs, it seems to me that the proposal

is not innovative in approach and does not reinforce local distinctiveness or include sufficient elements of traditional design which would have made the proposal appropriate for the area.

12. The Council has also referred to a Householder Extensions and Alterations Supplementary Planning Guide (the SPG). Although the proposal does not propose extending or altering an existing dwelling, the principles within this document should still apply, as otherwise its principles could be subverted by redevelopments leading to unacceptable effects. The SPG indicates that for two storey properties there should be a minimum of 1 m gap between an extended property and its boundary.
13. The eastern property would be located immediately adjacent to its western boundary. However this would only be for a single storey element and there would be sufficient space between the properties so that the development would not appear cramped in the overall street scene.
14. Therefore while the bulk of the proposal would not appear cramped, the design of the front elevation would appear harmfully intrusive into the street scene and harmfully out of keeping with the character and appearance of the area and as such would represent poor design.
15. The Council has referred to a number of policies in the development plan. Policy Ho13 of the Reigate and Banstead Local Plan 2005 (the RBLP) indicates that proposals should conform to the pattern of development in the surrounding area, and the proposal would comply with this policy. Policy Ho16 of the RBLP indicates that consideration should be given to the type, design and size of dwelling proposed, in relation to the plot size and shape. In this regard while the type of dwelling proposed would be in keeping with the character and appearance of the area the design and thus size would not. There would therefore only be partial compliance with this policy.
16. Furthermore, the proposal would not comply with Policy Ho9 of the RBLP which seeks development to reinforce local distinctiveness, that the scale of development should not be detrimental to the character of the surrounding area, be designed to a high standard incorporating elevational treatments, roofscape and building materials and complement the character of the area. It would also be contrary to Policies CS1 and CS4 of the Reigate and Banstead Core Strategy 2014 (the RBCS), in that its design would not be appropriate and of high quality that takes direction from the existing character of the area. It would also be contrary to the policies of the Design Guide as set out above. It would also be contrary to paragraphs 50, 60, 63 and 64 of the Framework, as set out above, and which indicates that permission should be refused for development of poor design.

Living conditions

17. The adjoining property to the west, 38 Blackborough Road, is set a short distance from the boundary with the appeal site. In the rear elevation at first floor level there is a window in the corner of the property and across the rear of the ground floor of the property to this side is a conservatory style extension, although with brick elements. The proposed western property, No 40A, would extend to the rear of No 38 by a considerable distance. Although set in from the boundary above ground level this would be to the east of that property only a short distance away and with the considerable depth

would have an overbearing effect harmfully and adversely affecting the outlook and light to that property.

18. The flank elevations of both proposed properties would have a number of windows in them. At ground floor there could be appropriate boundary treatment to ensure that there would not be any unacceptable overlooking leading to a loss of privacy. The upper floor windows are all either to non-habitable rooms or secondary windows to bedrooms in the roofspace. However, the style of the majority of the windows is a single pane of glass. While these windows could be obscure glazed they would have to be fixed shut to ensure that there was no loss of privacy; only opening above 1.7 m above finished floor level would not be possible with this style of window. Being fixed shut would mean that they would not be able to be used for natural ventilation which is necessary to ensure appropriate ventilation. Of the remaining two pane windows, those to the staircases could be fixed shut, but the casement style windows to the bathrooms should not.
19. To accord with the guidance on the use of conditions in the Framework and the national Planning Practice Guidance (the PPG) a condition should be reasonable, and requiring the windows to be fixed shut, in the circumstances of the case, would not be reasonable. Therefore, while imposing a necessary condition to prevent overlooking would overcome concerns about overlooking, the use of that condition would not, of itself, be reasonable. As such a condition should not be imposed. Unobscured glazed windows would lead to harmfully unacceptable overlooking towards the rear garden of No 38 and between the two properties.
20. The Council has also expressed concerns about the perception of overlooking from the number of windows in the event that they were to be obscure glazed. Given that I have found the proposal would result in unacceptable direct overlooking I do not need to consider this further.
21. The properties would incorporate a balcony to the rear of each. These would be set back from the plane of the elevation with walls on either side. In both cases any person using the balcony is likely to be more obvious to an observer and increase the perception that a neighbour was being overlooked when compared with that person being in a room behind a window.
22. In the case of the proposed western property, this would be some distance behind No 38 so that there would be no direct overlooking from somebody standing or sitting on the balcony towards the rear of that property or the area immediately adjacent to the house, which is the most sensitive area. In relation to the proposed eastern property, the balcony would be in front of the rear elevation of No 42, meaning that there would be no direct overlooking from somebody standing or sitting on the balcony towards the rear of that property. However, it would be possible to look towards the rear garden of No 42. This would be at an angle and given the separation this would not give rise to an unacceptable amount of overlooking.
23. To conclude on this issue, the proposal would result in an overbearing effect leading to a loss of outlook and light to No 38, a loss of privacy for the occupiers of Nos 38 and an unacceptable relationship between the proposed properties all harmful to the living conditions of the respective occupiers. As such it would be contrary to Policies Ho9 and Ho13 of the RBLP which seek that the design of a proposal should not seriously affect the amenities of adjoining

properties. It would also be contrary to paragraph 17 of the Framework which seeks a good standard of amenity for existing occupiers of land and buildings.

Other matters

24. The appellant has emphasised the benefits of providing additional dwellings but I give this only moderate weight as the issues where I have found conflict with development plan policies relate to the design of the proposals rather than the principle of developing the site. As such, this benefit is not sufficient to outweigh the harms I have identified above.

Conclusion

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

RJ Jackson

INSPECTOR