

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/16/3163013

Land at rear of 1 and 1A Oatfield Road, Tadworth, Surrey KT20 5EP

- 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 Jonathan Wood, JPW Developments Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/01829/F, dated 4 August 2016, was refused by notice dated 29 September 2016.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. For the sake of clarity I have used the address given in the heading, rather than of 1 Oatfield Road, which was given on the application form, as this better reflects the location of the appeal site.

Main Issues

3. The main issues are:
 - the effect on the character and appearance of the area; and
 - whether the proposal makes adequate provision for affordable housing.

Reasons

Character and appearance

4. The appeal site forms the western part of the rear gardens of properties facing Oatfield Road, which slopes gently but significantly down from east to west. To the west is Epsom Lane North with open countryside beyond. To the southwest of the appeal site, is a small electricity sub-station. There are a number of trees around the perimeter of the site including an ash tree and a whitebeam tree which are protected by a Tree Preservation Order¹ (TPO), and vegetation continues to the south along the rear boundaries of the properties along Oatfield Terrace.
5. To the north of the appeal site is a short section Oatfield Road, which divides to the east into Oatfield Road, to the south, and Ashcombe Terrace, to the north.

¹ Reference RE1171

Both of these roads are characterised by frontage development made up, predominantly, of two-storey semi-detached houses with long rear gardens. There are various outbuildings and garages within these gardens, particularly at the bottom of a number of the gardens of Ashcombe Terrace just to the north of the short entrance section of Oatfield Road, with direct access to Epsom Lane North.

6. The proposal is for the erection of a detached dwelling with its longer side facing the entrance section of Oatfield Road. The property would be two storeys in height although the upper storey would be within the roof plane with a dormer facing the entrance section of Oatfield Road. Access would be via an existing entrance area.
7. The proposed dwelling would appear as an isolated structure some distance from any other dwellings and would appear as a harmfully intrusive feature when viewed from Epsom Lane North and from the entrance section of Oatfield Road, particularly in the context of the open countryside to the west of Epsom Lane North. It would not reflect the overall pattern of development in the area I identified above of frontage development with long gardens to the rear. That there are existing outbuildings on the appeal site, does not affect this conclusion as these are all relatively small and do not intrude into the local environment. Similarly, the outbuildings to the rear the properties in Ashcombe Terrace are all small structures and do not intrude into the area. The entrance to Oatfield Road also marks a change in character to north and south, with that north being more urban than that to the south with its existing landscaping.
8. The proposal would involve providing additional landscaping, particularly along the Epsom Lane North and Oatfield Road boundaries. However desirable additional landscaping might be it would not make the unacceptable acceptable, and would not screen the proposal in views from the entrance section of Oatfield Road. It would still appear as an isolated structure some distance from any other dwelling and would be intrusive into the overall pattern of development in the area.
9. It is suggested that additional structures may be able to be located on the appeal site using permitted development rights. While this is not the place to determine whether any structures would be lawful, in the event that they were they would not be as tall as the proposed dwelling. In any event, I consider that it is unlikely that additional structures would be constructed as there are already a number of structures on the appeal site to meet the needs of the occupiers. Consequently, I give this little weight in my overall consideration.
10. The appellant has also referred to two properties constructed a short way to the south to the rear of 79 and 81 Kingsmead Road. I inspected these from a public right of way at the site visit. These dwellings are constructed at a lower level than the public right of way and, to my mind, were not visually isolated in the same way as the proposed development would be.
11. Therefore the proposal would be harmful to the character and appearance of the area. As such it would be contrary to Policies Ho9, Ho13 and Ho14 of the Reigate and Banstead Local Plan 2005 which seek development to conform to the pattern of development in the surrounding area. It would also be contrary to paragraph 58 of the National Planning Policy Framework (the Framework) which seeks development to respond to local character.

Affordable housing

12. Policy CS15 of the Reigate and Banstead Local Plan: Core Strategy (the RBCS) which was adopted in 2014 states that the Council will negotiate to achieve affordable housing taking account of the mix of affordable units proposed and the overall viability of the proposed development at the time the application is made. It also indicates that for proposals of one to nine dwellings a financial contribution broadly equivalent to provision of 10 percent affordable housing will be sought. This policy broadly accords with paragraph 50 of the Framework which indicates that local planning authorities should, where they have identified that affordable housing is needed, set policies for meeting this need on site unless a financial contribution of broadly equivalent value can be robustly justified.
13. On 28 November 2014 a Written Ministerial Statement (the WMS) under the title "Small-scale Developers" indicated that contributions should not be sought from developments of 10 units or less. The Court of Appeal² in May 2016 indicated that this WMS was lawful and the WMS is referred to in the national Planning Practice Guidance³ (the PPG). I give significant weight to the WMS and the PPG.
14. Like development plan policy the WMS and PPG are, however, not determinative and as the Court of Appeal stated a decision maker "cannot blindly follow a pre-existing policy without considering anything said to persuade him that the case in hand is an exception"⁴. The determination should, of course, follow the policies of the development plan unless other material considerations indicate otherwise, and the WMS and the PPG are material considerations.
15. In the report on the application the Council referred to the house prices in the area and the need for affordable housing in the area. However, there is nothing to show that the need or affordability is particularly acute in this area and that it could not be met in some other way through larger sites which would not be affected by the threshold set out in the WMS and PPG.
16. While the appellant has not indicated that the proposal would represent a particular burden which would mean that the development would not take place, I consider that the lack of detailed evidence that the necessary affordable housing for the area could not be delivered on larger sites is such that WMS and PPG represent material considerations that mean that the determination should be made not in accordance with the development plan.
17. The proposal does not make provision for affordable housing, but I find that this is not necessary to make the development acceptable. As such the proposal, notwithstanding that it does not comply with Policy CS15 of the RBCS as set out above, it makes adequate provision for affordable housing.

Other matters

18. Local residents have written concerned about the precedent that granting permission may set. While precedent can be a material consideration it must

² Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441.

³ Reference ID: 23b-031-20160519

⁴ Paragraph 16

be more than a generalised concern, and, in any event, each case must be considered on its own individual merits.

19. Equally, concern has been expressed that the proposal would give rise to highway safety concerns at the junction of Oatfield Road with Epsom Lane North. I note that the Highway Authority has raised no objection, subject to conditions, and am satisfied that the increase in traffic caused by a single dwelling would not be sufficient to result in severe cumulative impacts which is the test set out in the Framework if permission is to be refused.
20. Finally, objection is made on the basis that the proposal would add to existing flooding issues in the area. However, I have not been provided with any evidence that there are such issues, which I would have expected to have been highlighted by the relevant statutory undertaker, and am satisfied that an additional dwelling would not result in an unacceptable effect.

Conclusion

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

RJ Jackson

INSPECTOR