

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/16/3159478

19 Court Hill, Chipstead, Surrey CR5 3NQ

- 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 & Mrs Ring against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/00227/F, dated 29 January 2016, was refused by notice dated 3 May 2016.
 - The development proposed is removal of outdoor swimming pool, re-positioning of out building and construction of new detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Council refused the application for three reasons, relating, as it saw it, to the effect on the character and appearance of the area, whether there was sufficient information to allow a proper judgement on the effect on trees, and whether appropriate provision had been made the provision of affordable housing.
3. On 16 January 2017 the Council wrote to indicate that in light of appeal decisions in the area, and the weight given to a Written Ministerial Statement (the WMS) 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".
4. Since the Council's decision various tree and shrub works have been undertaken on site. The appellant submitted a revised site plan and revised street scene drawing to reflect this along with additional information on tree protection works. I have used this information in my decision.
5. Drawing number 173314 X01 Revision L indicates that both side elevations face south. This is incorrect, but it is possible to deduce which of them should be south and which north. I have considered the appeal on the appropriate basis.

Main Issues

6. In light of the above, the main issues are the effect on:
 - the character and appearance of the area; and
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- the living conditions of the occupiers of 17 and 18 Court Hill in terms of outlook, noise and disturbance and privacy.

Reasons

Character and appearance

7. The appeal site lies on the west side of Court Hill. In this area, this is a straight road with well separated frontage development on either side. There is a significant amount of vegetation on the individual sites giving the overall area a verdant feel which makes it distinctive. The landform slopes significantly from west down to east, with the properties on the western appeal side being some distance above the road and the properties opposite being set down.
8. The appeal site lies between 17 and 19 Court Hill and currently forms part of the garden of 19 Court Hill. The main area of the site is set some distance up from Court Hill with a strong evergreen hedge facing the road. On the front part of the appeal site is an outdoor swimming pool, with a wooden pump house on the southeast corner of the appeal site set at an angle to the road. While visible from the road, the more so following the works to trees and shrubs, this pump house is not intrusive as it is of a similar height to the hedge. To the south of the swimming pool is a linear single storey outbuilding.
9. The appeal proposal is to remove the swimming pool and outbuilding and construct a dwelling on this area, relocating the outbuilding to the rear of the site and constructing a new swimming pool in front of the outbuilding. Accommodation would be over four floors with a basement and three upper storeys, with the second floor rooms within the roofspace being lit by rooflights and a dormer in the rear elevation.
10. The ground level of the dwelling would be set down from the existing level of the swimming pool surround between the two properties on either side. A new vehicular access would be created from Court Hill at the southern end of the site. This would lead to a parking/turning area in front of the dwelling with access to the side to a 'car lift' which would allow access to an underground 'garage'. The garage would have personnel access to the basement.
11. The spacing between properties on the western side of Court Hill is more generous than that on the eastern with areas of substantial landscaping ensuring that the verdant character of the area is maintained. Both 17 and 19 Court Hill are located on the northern part of their respective plots, with an enclosed passageway of No 17 being located immediately adjacent to the boundary.
12. Although there would be sufficient gaps between the properties to ensure that the overall rhythm of built development in the area would be maintained, because of the access arrangements proposed, there is little room for landscaping on the appeal site on its southern side at the front adjacent to Court Hill. This should be required to ensure that the verdant character of the area would be maintained. The proposed plan shows a small area of planting at the front of the site, but the hardsurfaced area up to and beside the car lift would extend to the boundary meaning that a significant amount of planting would be possible. Additional landscaping would be required in this area to successfully integrate the development into the character of the area.

13. I have considered whether it would be possible to provide additional landscaping along this boundary. Firstly, this is not what is applied for and interested parties may wish to make comment on such a scheme, and secondly, I cannot be sure that this could be achieved with the development providing sufficient off-street parking or without the development being cramped within the site. I therefore consider that this could not be resolved through a condition.
14. Local residents have expressed concern that the property would be set further into the site than Nos 17 and 19. However, the properties on the west side of Court Hill are not on a strict line and given that they all set back a short distance from the road this would not be out of character with the overall street scene.
15. As I understand it in the emerging Development Management Plan (the DMP) the Court Hill area is proposed to be included with a Residential Area of Special Character. Here different criteria for consideration of proposals apply to those under the existing adopted development plan. Paragraph 216 of the National Planning Policy Framework (the Framework) indicates that weight can be given to emerging policies but this is dependent on the stage of preparation, the extent that there are unresolved objections and the degree of consistency with the Framework. At this stage the DMP is at a relatively early stage in preparation and there may be unresolved objections. I am therefore only able to give these policies very limited weight.
16. Overall, the proposal would be harmful to the character and appearance of the area. Consequently, it would be contrary to Policies Ho9, Ho13 and Ho16 of the Reigate and Banstead Local Plan 2005 (the RBLP), which seek additional landscaping as part of an integral part of the design, maintaining the character of the area and that the effects on the character of the surrounding area should be minimised. It would also be contrary to paragraph 58 of the Framework which indicates that development should respond to local character and be visually attractive as a result of appropriate landscaping.

Living conditions

17. Although the Council did not refuse the application because of its effects on the living conditions of local residents, the occupiers of those properties have expressed their continued objections on these grounds.
18. The proposed dwelling would extend to the rear of No 17. However, it would be set some distance off the boundary and, having visited No 17 as part of the site visit and viewed the relationship from within the garden and from the rooms in the northwest corner of that house, I am satisfied that there would be sufficient separation to ensure that the property, even being at a higher level than No 17, would not have an unacceptable overbearing effect.
19. However, the proposal would result in an increase in noise and disturbance in close proximity to the boundary occasioned by vehicular movements to/from the car lift, by the shutting of car doors in this area and the noise of people moving and talking to one another. As noted above No 17 is located adjacent to the joint boundary and this noise and disturbance would be harmful to the living conditions of the occupiers. I appreciate that the occupiers of No 19 currently use the domestic swimming pool, but this is separated by the outbuilding and is further away. An outdoor swimming pool is likely to be used

less frequently than this area providing access to the proposed dwelling. The hardstanding would be essentially up to the boundary and providing a solid boundary treatment would not be sufficient to mitigate these effects.

20. The proposal involves a balcony at the rear of Bedroom 1 on the side of the dwelling adjacent to No 17. A balcony would allow an occupier to sit out and would offer more extensive views than those which would be obtained from within a room with only a window. However, the nature of the existing boundary treatment, which is proposed to be maintained to the rear of the proposed dwelling, would be sufficient not to give rise to an unacceptable loss of privacy.
21. Concern has also been expressed that there would be unacceptable overlooking from a secondary 'V' shaped oriel window in the northern side elevation of No 17. This would look out on to the parking and turning area in front of the proposed dwelling which would be in the public domain when viewed from Court Hill. I am therefore satisfied that there would be no unacceptable overlooking. The only windows in the southern side elevation of the proposed property are secondary windows to the sitting room. I am satisfied that if these windows were to be obscure glazed, which could be secured by condition, that there would be no unacceptable overlooking towards No 17.
22. Objection has also been raised that the proposals would give rise to an unacceptable level of overlooking towards No 18 on the eastern side of Court Hill. Although the proposed property would be at a higher level I am satisfied, taking into account the distances between the properties and the existing boundary treatment on the Court Hill frontage, that there would be adequate separation between the properties not to give rise to an unacceptable level of overlooking.
23. Therefore, while there would not be an overbearing effect leading to a loss of outlook, nor an unacceptable loss of privacy, the proposed development would give to a harmful unacceptable effect on the living conditions of the occupiers of No 17 by reason of noise and disturbance. As such the proposal would be contrary Policies Ho9 and Ho13 of the RBLP which indicate that the layout should not seriously affect the amenities of adjoining properties and that it should not unreasonably 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 all existing occupiers of land and buildings.

Other matters

24. Local residents have also expressed their concerns about the tree felling and vegetation clearance that has taken place, but this does not appear to have been undertaken contrary to planning control, and this therefore does not count against the development.

Planning Balance

25. The appellant has emphasised the benefits of providing an additional dwelling in this location 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

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

RJ Jackson

INSPECTOR