
Appeal Decision

Site visit made on 20 February 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 03 March 2017

Appeal Ref: APP/L3625/W/16/3162670

8 Pilgrims Way, Reigate RH2 9LG

- 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 Galaxy Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/01560/F, dated 30 June 2016, was refused by notice dated 3 October 2016.
 - The development proposed is the erection of two detached dwellings, garaging, parking and associated access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings, garaging, parking and associated access at 8 Pilgrims Way, Reigate RH2 9LG in accordance with the terms of the application, Ref 16/01560/F, dated 30 June 2016, subject to the conditions contained in the schedule at the end of this decision.

Application for costs

2. Applications for costs were made by Galaxy Ltd against Reigate & Banstead Borough Council and by Reigate & Banstead Borough Council against Galaxy Ltd. These applications are the subject of separate decisions.

Procedural matters

3. The application submitted by the appellant on 30th June 2016 was notified as being invalid, amongst other matters in respect of the omissions of plans for the proposed garages. The appellant submitted an amended plan 8PW P2 revision D which included these details and the Council validated the application. Plan 8PW P2 D was therefore a plan that formed part of the valid planning application and was before the Council for its consideration. The plan was the latest iteration of the 'Proposed Site Plan', as it was entitled, and it is therefore not unreasonable to conclude that it superseded the previous iteration of that plan held by the Council. As this was pre-validation it was reasonable to expect the Council to carry out a final validation check to ensure that all documentation was provided and the application was validly made at the point in time it validated the application. I have, therefore, considered the appeal on the basis of plan 8PW P2 D.
 4. The Council are concerned that there are conflicts between plan 8PW P2 D and the 'Site Location Plan' 8PW P1 and the 'Tree Protection Plan' TPP 01. Insofar
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as 8PW P1, the site location plan the amended plan 8PW P2 D contains a site location plan and a red line and therefore contains all the necessary information on Plan 8PW P1 to make the application valid. The conflict, such that there is, can be resolved by reference to plan 8PW P2 D and by superseding 8PW P1 and not referring to it in the decision, as I have done. Insofar as the Tree Protection Plan TPP 01, this clearly refers to protection on the basis of plan 8PW P2 and is supporting information to the application. It is not a determinative plan and as it is inconsistent with plan 8PW P2 D cannot be referred to in the approved plans and must be read in the context of understanding the changed relationship with the proposed houses. Plans 8PW P3 and P4 provide details of the elevations and floor layouts of the houses and there is no inconsistency in these plans with other plans in the application. On this basis I have considered the appeal on the basis of plans 8PW P2 D, P3 and P4.

5. The Council refused planning permission for two reasons the second reason related to a requirement for a financial contribution towards affordable housing provision elsewhere in the Borough. In its statement of case the Council have confirmed that this reason is no longer contested. I have therefore not considered this matter in this appeal.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of the occupants of 9 Beech Road, with regard to outlook and enjoyment of their rear garden.

Reasons

7. The proposed development would result in, amongst other matters, the introduction of a detached two storey dwelling close to the rear boundary of 9 Beech Road, along with a further detached dwelling between that property and the existing property at 8 Pilgrims Way. The relationship between a detached house and 9 Beech Road has previously been considered at appeal¹. In those cases the Inspector concluded that the proposals would seriously spoil the enjoyment of the garden for the residents of 9 Beech Road. In both cases reference was made to the size of the flank walls these being 14m long and 11m high in one instance and 12m long and upto 10 m high in the other. In both cases these are substantially taller and longer than that proposed here which, according to the officer report would be some 5.7m high to the eaves and 9m to the ridge with a length of 11.6m. The roof would be a hipped roof which would therefore be sloping away from the common boundary. The scale and size of the proposed elevation presented to the occupants of 9 Beech Road would therefore be significantly less than previously considered unacceptable.
8. Given that I have accepted that the scheme is based on plan 8PW 2P D the house would be sited in excess of 5m from the common boundary. There is an extant permission with a similar property a similar dimension away from the boundary. The Council have previously found this separation distance to be acceptable, as evidenced by the extant planning permission 15/00595/F.
9. The separation from the boundary would allow for the retention of much of the mature planting on the boundary and allow space for additional planting. The

¹ APP/L3625/A/08/2083928 and APP/L3625/A/08/2083923

Tree Protection Plan, although based on the earlier plan, identifies trees to be retained with the proposed property in closer proximity than that proposed on the plan I am considering and so provides a reasonable degree of comfort that the trees could be retained with a property further from them. The tree protection details will need to be secured by a condition requiring the submission and approval of such, as the existing tree protection plan is inconsistent with the plan I am considering. On the basis of the additional screening afforded by additional landscaping supplementing the existing mature planting this would further mitigate any impact that may arise.

10. Overall I am satisfied that the proposed development would not result in material harm to the living conditions of the occupants of 9 Beech Road, with regard to outlook and enjoyment of their rear garden. Consequently it would not conflict with policies Ho9, Ho13, Ho14 and Ho15 of the Reigate and Banstead Borough Local Plan which collectively seek to ensure high quality development that has regard to the amenities of the occupants of surrounding properties. This is consistent with bullet point 4 of paragraph 17 of the National Planning Policy Framework which advises the planning system should seek to secure high quality development and a good standard of amenity for all existing and future occupiers of land and buildings.

Conclusions and conditions

11. The proposed development would make provision for two additional housing units in an urban location and would not result in material harm to the living conditions of the occupants of the adjoining property 9 Beech Road. The proposal would not conflict with the development plan and would therefore be sustainable development as defined in The Planning Policy Framework.
12. I have considered the conditions suggested by the Council in the light of the advice in the Planning Practice Guidance. Condition 2 identifies the approved plans and is required to provide clarity and certainty and is good practice.
13. Condition 3 requires the approval of ground levels and finished floor levels and is necessary in the interest of the appearance of the scheme and the amenity of the adjoining neighbours. Condition 4 requires details of materials and is necessary in the interest of the appearance of the development.
14. Conditions 5, 6, 7 and 8 are required to protect existing trees and landscaping and ensure appropriate landscaping is undertaken in the interest of the appearance of the site and the amenity of surrounding neighbours.
15. Conditions 9 and 10 are required in the interest of the amenity of the occupiers of surrounding properties.
16. Conditions 3, 4, 5, 6 and 7 are 'pre-commencement' conditions and require certain actions before the commencement of development. In all cases this is necessary to ensure that the condition will have its proper effect.
17. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL APP/L3625/W/16/3162670

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 8PW P2 rev D; 8PW P3 and 8PW P4.
- 3) No development shall take place until the developer obtains the local planning authority's written approval of details of both existing and proposed ground levels and the proposed finished ground floor levels of the buildings. The development shall be carried out in accordance with the approved levels.
- 4) No development shall take place until written details of the materials to be used in the construction of the external surfaces, including fenestration and roof, have been submitted to and approved in writing by the local planning authority, and the development shall be carried out in accordance with the approved details.
- 5) No development shall commence, including groundworks preparation and demolition, until works related to arboricultural matters, including arboricultural supervision, monitoring and tree protection measures have been secured in accordance with details first submitted to and approved in writing by the local planning authority. The development shall be implemented in strict accordance with the approved details.
- 6) No development shall commence on site until a scheme for the landscaping of the site including the retention of existing landscape features has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include details of hard and soft landscaping, including any tree removal/retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation and management programme.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development hereby approved or in accordance with a programme agreed in writing with the local planning authority.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, shrubs of the same size and species.

- 7) No development, groundworks or demolition processes shall be undertaken until an agreed scheme of supervision for the arboricultural protection measures as required by condition 5 of this permission has been submitted to and approved in writing by the local planning authority. The supervision and monitoring shall be undertaken in accordance with the approved details. The submitted details shall include.
 - a. Pre commencement meeting between the retained arboricultural consultant, local planning authority Tree Officer and individuals and

- personnel responsible for the implementation of the approved development;
- b. Timings, frequency and methods of site visiting and an agreed reporting process to the local planning authority; and
 - c. The supervision monitoring and reporting process shall be undertaken by a qualified arboriculturist.
- 8) No pruning, removal or other works to the retained trees and hedges located both within and overhanging the site, shall take place during construction, or for one year after completion except with the prior written approval of the local planning authority. Any tree work already approved as part of this consent and any other work undertaken should be done in accordance with British Standard 3998 'Recommendations for Tree Work'. If any of the retained trees or hedges, within the site, controlled by this condition, are removed, die, or become damaged or diseased within one year of completion, it/they shall be replaced before the expiry of one calendar year by tree/s or hedge/s, to a planting specification agreed in writing by the local planning authority.
- 9) The development shall not be occupied until boundary treatment has been provided in accordance with a plan indicating the positions, design, materials and type of boundary treatment to be erected first submitted to and approved in writing by the local planning authority. The boundary treatment shall thereafter be retained as approved.
- 10) The first floor windows in the east and west side elevations of the development hereby permitted shall be glazed with obscured glass which shall be fixed shut, apart from a top hung opening fanlight whose cill height shall not be less than 1.7 metres above internal floor level, and shall be maintained as such at all times.

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