

Appeal Decision

Site visit made on 7 February 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 6th March 2017

Appeal Ref: APP/L3625/W/16/3161771

Elgar Works, Nutfield Road, Merstham RH1 3EP

- 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 Kearns, CRC Riders Ltd, against the decision of Reigate & Banstead Borough Council.
 - The application Ref 16/00802/F, dated 7 April 2016, was refused by notice dated 5 October 2016.
 - The development proposed is demolition of existing industrial and commercial buildings and erection of two new residential blocks containing a total of 29 flats (11 x 1 bed, 18 x 2 bed) together with access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character of the area
 - the effect of the proposed development on the living conditions of surrounding occupiers, having particular regard to privacy and outlook, and
 - whether the proposed development should provide affordable housing.

Reasons

The character of the area

3. The Council objects to the lack of space around the proposed blocks, their proximity to site boundaries, and the dominance of hard landscape, concluding that a cramped character of overdevelopment would result.
 4. I appreciate that the space between the proposed blocks would be dominated by cars, but the approach to compress the car-parking into as small a place as possible on a small site has the advantage of maximising the areas of soft or green space. Properly balanced by sufficient surrounding soft space, this strategy in the block layout seems appropriate here. While there are some pinch points in the soft space, for instance by the flanks of block 1, the retained width for planting would still be substantial. The overall effect, taking into account the green edge along the boundary to Crossways Gardens and the area of planting behind block 2, would strike the right balance.
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5. However, block 1 and block 2 would appear uncomfortably close to the Crossways boundary. Block 1 would be only a few metres from the back fence of 22 The Crossways. Given the 2-storey scale of the block, the space between it and the boundary would appear pinched, and the relationship of building to boundary, out of character with the immediate, suburban context.
6. The terrace area of the ground floor flat in block 2 would almost merge into the footway link to Nutfield Road, so close is the block to the Crossways boundary. This block is three storeys in part, and in such proximity to the Crossways boundary would appear uncharacteristically close in the immediate context of the distinctive pattern of development of the pairs of semi-detached houses set substantially back from the common boundary.
7. The development would appear cramped between block 1 and block 2 and the Crossways boundary, and for this reason it would appear as overdevelopment. I acknowledge that the roofs of both blocks would be flat, which would diminish their scale in relation to the site boundaries. I have taken into account the existing building volumes and their relationships to the site boundaries; however, this does not outweigh the harm to the character of the area which would result from this proposal. While I see less relevance with Policy Ho16 of the Local Plan 2005 (LP) to which the Council refers and which concerns frontage plots or extensions, it would conflict with LP Policies Ho9 and Ho13, which require redevelopment to maintain the character of the area and to reinforce local distinctiveness.
8. It would be at odds too with the Framework¹ which says that decisions should aim to ensure that developments respond to local character and reinforce local distinctiveness. It would also be contrary to advice in the Planning Practice Guidance² which advises that development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development.

The living conditions of the occupiers in The Crossways

9. The closest house in The Crossways to block 1 would be around 20m distant from the 2-storey part of the block, and around 36m from the 3-storey part of the block. This separation distance would not result in materially harmful overlooking from the openings in block 1. I note that the second floor flat would have a terrace facing towards The Crossways, and the first floor flats would have balconies on the front and rear elevations. However, given their limited depth and the separation distances, I do not consider they would risk disturbing or harmfully overlooking the occupiers in The Crossways.
10. Given the proximity and height of the existing buildings on site to The Crossways, block 1 would not have an adverse impact on the outlooks from the houses or gardens in The Crossways. It would be sufficiently distant from the houses in The Crossways not to reduce to a harmful degree the diffuse light and sunlight in the houses and gardens.
11. From the closest houses in The Crossways, the first floor of block 2 would be around 23m distant and the second floor, around 28m distant. With these separation distances and given the flat roofs of the proposal, block 2 would not

¹ National Planning Policy Framework, paragraphs 58 and 60

² Planning Practice Guidance, DCLG 2014 as amended, paragraph:007, ID 26-007-20140306

result in an overbearing relationship on the occupiers in The Crossways. Nor would it materially harm the diffuse light or sunlight they presently enjoy.

12. The first floor opening and rear balconies in block 2, given their separation distances from The Crossways, would not result in harmful overlooking into the houses or gardens in The Crossways. I note the second floor terrace of block 2 facing The Crossways, but given the separation distance and its modest size, it too would not harmfully overlook the occupiers in The Crossways. Moreover, the balconies and terrace would be limited in size and would relate more to the interior spaces than as amenity spaces where people might gather or undertake activities which could disturb surrounding occupiers.
13. Given the distance of block 2 from the openings in the houses in The Crossways and their back gardens, and the existing structures on-site along the boundary, I find no harm to the living conditions of the occupiers of houses in The Crossways.

The living conditions of the occupiers in Nutfield Road

14. Block 2 would be around 24m from the rear elevations of the closest buildings in Nutfield Road. While it would have a third storey, this would be around 28m from the backs of these buildings. Given the heights of block 2 and the corresponding separation distances to Nutfield Road, there would be no adverse impact on the outlook of the occupiers in Nutfield Road.
15. These distances would ensure that there would be no harmful overlooking into the dwellings and rear areas of the buildings in Nutfield road. While I note a first floor rear balcony and a terrace to the second floor flat in block 2, given their limited depth and their separation from Nutfield Road, I do not consider they would risk disturbing the occupiers of dwellings in Nutfield Road. Similarly, given the length of the gardens behind Nutfield Road, block 2 would not reduce to a harmful degree the amount of diffuse light and sunlight entering the dwellings on Nutfield Road or their gardens.
16. I appreciate that the outlooks from neighbouring dwellings would change as a result of the development, and that there may be some limited overlooking where there is presently none. However, I take into account the scale and location of the existing buildings on the site as well as the risk of disturbance from an alternative commercial use on the site, together with the commonly accepted degree of mutual overlooking between opposite plots in suburban locations like this.
17. Weighing these factors in the balance, I do not consider that the proposed development would cause material harm to the living conditions of surrounding occupiers, having particular regard to privacy and outlook. There would thus be no conflict from the proposal with Policies Ho9 and Ho13 of the Local Plan 2005 which require development not to seriously or unreasonably affect the amenities of adjoining properties.

Affordable housing

18. While one of the reasons for refusal of the planning application was the failure to provide affordable housing, the appellant submitted a unilateral undertaking late in the course of the appeal to secure 9 of the 29 dwellings as affordable housing.

19. Whilst I am dismissing the appeal, the undertaking appears to address the shortcomings identified in the Council's statement. It would accord with Policy CS15 of the Core Strategy 2014 (CS) which in schemes of 15 or more dwellings seeks 30% of them as affordable.
20. Taking into account the statutory tests contained at Article 122 of the Community Infrastructure Levy Regulations 2010 as amended, and in paragraph 204 of the Framework, I conclude that an obligation is necessary to secure affordable housing and that the proposal would be in accordance with CS Policy CS15.

Other Matters

21. The views of local residents have been taken into consideration and I have already dealt with what I regard as the main planning issues. There is no compelling evidence to reject the proposal on the insufficiency of its off-street parking provision, resulting traffic congestion, or risks to highway safety. I note that the Council and highway authority do not object to the level of parking, the access, or the number of trips generated. Taking into account the accessibility of the location and the alternative of continued commercial use, I have no reason to disagree with their conclusions.
22. I note the objections to the height of the proposed blocks and their appearance. However, their overall height would be similar to the ridge heights of the surrounding buildings. The parts of the blocks which would stand closest to the surrounding buildings would step down to 2-storeys, and would have a similar eaves height to their neighbours. I appreciate the surrounding buildings tend to have pitched roofs. However, given the almost land-locked nature of the site which already breaks from the surrounding pattern of development, together with the character of its commercial buildings, I see no conflict from the flat roofs proposed and the character of the area.

Conclusion

23. The proposed development would not harm the living conditions of surrounding occupiers and would provide a significant benefit of 29 dwellings, including 9 as affordable, to local housing supply, a significant boost to which is anticipated by paragraph 47 of the Framework. However, this is outweighed by the unacceptable harm it would cause to the character of the area, which is in clear conflict with the policies of the development plan. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR