
Appeal Decision

Site visit made on 30 January 2017

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 20th March 2017

Appeal Ref: APP/Q3820/W/16/3160626

Silchester, Horsham Road, Gossops Green, Crawley RH11 8PN

- 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 Ms Lisa Johnson against the decision of Crawley Borough Council.
 - The application Ref CR/2016/0329/FUL, dated 11 April 2016, was refused by notice dated 10 August 2016.
 - The development proposed is a detached single storey dwelling on land at rear of existing property.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has granted planning permission for a new two-storey detached house¹ to the side of the original house on the site. That new house has been constructed. The original house is identified on the submitted plans as Silchester 1, the newly constructed house as Silchester 2, and the proposed single-storey dwelling as Silchester 3. I have used the same names in my decision.
3. Two ash trees subject to a Tree Preservation Order² are located adjacent to the common boundary between the site and Lynnmoor, to the south of the proposed dwelling. A further group of protected trees is situated in front of Silchester 1, at the side of Silchester Drive.

Main Issues

4. The main issues are the effect of the proposed development on:
 - i) the character and appearance of the area;
 - ii) the living conditions of occupiers of neighbouring properties, with particular regard to noise and disturbance and private outdoor space;
 - iii) the living conditions of future occupiers of the development, with particular regard to privacy, light and outlook; and
 - iv) protected trees.

¹ Refs CR/2012/0130/FUL and CR/2014/0583/FUL

² Tree Preservation Order No 16.3.14 of 2008

Reasons

5. The appeal site comprises part of the garden area at the rear of Silchester 1 and 2. It is accessed from the main Horsham Road via a single-track unadopted road known as Silchester Drive, which also provides access to the neighbouring properties Lynnmoor and Southview. The area is predominantly residential, with houses of varied ages, sizes and styles. The Holy Trinity School lies to the rear of the site.
6. It is proposed to construct a single storey dwelling which would be accessed from the parking area at the front of Silchester 1 and 2, via the narrow gap between the side elevations of those houses. The new dwelling would be finished in materials similar to Silchester 2 and would have parking and turning space to the front, and side garden areas including decked terraces.
7. The Council and appellant agree that the proposal represents infilling in the built up area, and that this is acceptable in principle.

Character and appearance

8. The prevailing pattern of development in the area is of houses in good-sized gardens, particularly at the rear. Silchester 3 would be set near the rear of the plot, with no rear garden and the area in front largely given over to parking and turning. This would give it a significantly cramped character, at odds with the surroundings.
9. Silchester 3 would be partially visible between Silchester 1 and 2 when approaching along Silchester Drive. In this view the single storey building would appear contrived and 'squeezed-in' relative to the host properties and other more spacious plots nearby. This effect would be exacerbated by the narrow driveway positioned immediately abutting the side elevations of both Silchester 1 and 2.
10. For these reasons, Silchester 3 would not relate comfortably with Silchester 1 and 2 or with the prevailing local character. I therefore conclude that the proposal would be detrimental to the character and appearance of the area. As a result, it would conflict with Policy CH2 of the adopted Crawley Borough Local Plan 2015-2030 (CBLP), which amongst other things seeks to ensure that development would respond to and reinforce locally distinctive patterns of development, and with Policy CH3 of the CBLP, which sets out general development criteria. It would also conflict with Policy H1 of the CBLP, which sets out the approach to housing provision, including ensuring against detrimental town-cramming.
11. In arriving at this conclusion, I have had regard to the two examples of residential development considered by the appellant to have similar plots to the appeal site. While there may be some similarities, it is nonetheless apparent that the general pattern of development in both cases differs significantly from the case before me, being less spacious than properties in the Silchester Drive area and having different layouts. These examples therefore do not outweigh my findings above, which relate to the merits of the scheme before me.

Living conditions of neighbouring occupiers

12. Silchester 1 has a number of windows in the side elevation facing the proposed access, including a squared bay on the ground floor. The access would run

- immediately adjacent to these windows, through which noise and activity from the use of the drive would be clearly perceptible to occupiers of Silchester 1.
13. While the level of activity associated with the proposed dwelling would be modest commensurate with its size and type, it would be likely to include car engines, reversing, headlights, car radios, and slamming doors, among others. All comings-and-goings associated with Silchester 3 would pass in immediate proximity to Silchester 1 and 2. At such close range even modest levels of such activity would be clearly noticeable against the background environment. It would therefore be likely to be significantly intrusive, albeit intermittently, to the occupiers of Silchester 1, resulting in harm to the living conditions experienced there due to noise and disturbance.
 14. The effects in relation to Silchester 2 would be somewhat less because there are no windows or openings in the side elevation of that property. However, activities associated with the occupation of Silchester 3 would nonetheless take place in proximity to the front and rear windows, and the small rear garden area, from where a degree of intrusive impact is also likely to be experienced by the occupiers of Silchester 2.
 15. The rear garden of Silchester 1 has been redefined by the erection of timber fencing to separate that area from the proposed plot. The resulting garden provides adequate private garden space for that property. Silchester 2 is set significantly back compared to Silchester 1, which means the rear garden area provided at that property would be significantly shorter. At approximately 8.5m, the garden depth would fall short of the minimum requirement of 10.5m set out in the Council's adopted Urban Design Supplementary Planning Document 2016 (SPD).
 16. Furthermore, the resulting garden area at Silchester 2 would fall short, by around 10m², of the Council's adopted standards for external private amenity space set out in the SPD, and referenced in Policy CH5 of the CBLP, in seeking to ensure, among other things, that development would provide external space adequate to meet the basic privacy, amenity and usability requirements for the likely level of occupancy. The creation of the plot for Silchester 3 would therefore result in an inadequate provision of private outdoor space at Silchester 2, contrary to Policy CH5 and the SPD.
 17. I note that Silchester 2 is well set back from the road with a significant outdoor area in front of the house. However, this area is open to view from Silchester Drive and is fully paved to provide parking and turning space. It therefore would not mitigate the inadequate provision of rear garden space. Moreover, the local area generally consists of family sized houses in generous gardens. Silchester 2 is also a family sized house. On this basis, I am not persuaded that an exception to the policy requirement for outdoor space is warranted in order to facilitate an additional plot, or that it has been shown that the sub-standard level of outdoor space provision would be mitigated through excellence in design.
 18. I conclude that the proposed development would be detrimental to the living conditions of occupiers of neighbouring properties, with particular regard to noise and disturbance and private outdoor space. It would therefore conflict with Policies CH3 and H1 of the CBLP, which among other things require development to provide or retain a good standard of amenity for all existing and future occupants, including not causing unreasonable harm by way of

general activity, for example noise. It would also conflict with Policy ENV11 of the CBLP, which seeks to ensure that quality of life would be protected from unacceptable noise impacts, and Policy CH5 of the CBLP and the adopted SPD, which among other things set out requirements for the provision of appropriate external space.

Living conditions of future occupiers of the development

19. Overlooking of Silchester 3 would be possible from the first floor windows of Silchester 1 and 2 and Lynnmoor at close proximity when compared to the general separation distances between main elevations of houses in the vicinity. In particular, proposed Bedroom 1 and its decked terrace would be significantly overlooked from Silchester 1, and the side garden and decked areas adjacent to the proposed living space would be significantly overlooked from Silchester 2 and Lynnmoor.
20. The SPD sets out that a minimum distance of 21m should be maintained between opposing windows to avoid any potential overlooking and privacy issues. While the SPD refers to opposing rear windows, the principles are also relevant in relation to the front elevation of the infill house proposed. The separation distances with all three adjacent properties would fall short of 21m. In particular, the distances between Silchester 1 and proposed Bedroom 1, and between Silchester 2 and the side garden area, at around 15-16m, would represent a significant shortfall against the SPD guidance. I consider that these unduly close relationships would result in a significant adverse impact on the privacy experienced by the future occupiers of Silchester 3. Moreover, there is no significant evidence before me that the specific circumstances of this proposal justify separation distances significantly below those set out in the SPD.
21. The outlook from proposed Bedrooms 2 and 3 would be severely limited, with the windows facing almost immediately onto boundary fencing. The respective north and west aspects of these windows, taken with the proximity of the fencing and adjacent tall trees and vegetation, would result in the significantly limited availability of natural daylight to those rooms, to the detriment of the living conditions experienced there.
22. It is not disputed that the overall provision of garden at Silchester 3 would meet the area required by Policy CH5 of the CBLP. However, the principal garden area would be positioned to the side of the dwelling, adjacent to the main living area, where it would be dominated by a number of tall trees positioned to the south and west, including the protected ash. During the summer months, when the trees would be in leaf and the garden would be likely to be in greatest use, this garden and decking area would be substantially overshadowed by the trees, which would significantly restrict its value as usable outdoor space.
23. I conclude that the proposed development would be detrimental to the living conditions of future occupiers of the development, with particular regard to privacy, light and outlook. It would therefore conflict with Policies CH3 and H1 of the CBLP, which among other things require development to provide or retain a good standard of amenity for future occupants, including by not causing unreasonable harm by way of overlooking, dominance or overshadowing. It would also conflict with Policy CH5 of the CBLP and the adopted SPD, which among other things set out the requirements for the

provision of appropriate, useable external space, and design principles including separation distances between residential properties.

24. In reaching my conclusion, I have had regard to the appellant's view that vegetation would limit overlooking and that there are other cases where overlooking is far worse. The existing tall trees and vegetation are principally towards the rear of the site, where they would have no limiting effect on overlooking from the three adjacent properties sited forward of the proposed dwelling. Furthermore, the main source of overlooking would be from first floor windows and this is unlikely to be mitigated to any significant degree by the planting indicated around the front of the site. I accept that there are situations where overlooking is worse than would result from the appeal proposal for various reasons. However, this does not outweigh my findings on this main issue which are based on the merits of the specific scheme and policy framework before me.

Protected trees

25. One protected ash is situated in the corner of the appeal site and the other is near the common boundary on the Lynnmoor side. These trees, which are very tall and clearly visible from outside the site, contribute positively to the character and appearance of the area. It is not in dispute that they are worthy of protected status.
26. The proposed dwelling would be sited close to the protected trees and this indicates the potential for the construction or operational phases of the development to affect them. Any adverse impacts on the trees could be detrimental to their significant public amenity value. No tree survey has been provided and it is not clear on the evidence before me whether the development would impact upon the trees or the root protection areas.
27. Furthermore, the limited size of the main garden area at Silchester 3, and its concentration under the canopy of the protected trees, may result in conflict between the use of the garden and the long term preservation of the trees. The trees would cause substantial overshadowing of the main garden area, and this together with leaf or other droppings may be intolerable for future occupiers. As a result, there would be potential pressure for works to prune or even remove the protected trees.
28. For these reasons and in the absence of any significant evidence to the contrary, I consider that a precautionary approach is appropriate and that the proposed development would present a potential risk to protected trees.
29. I conclude that the proposed development would be detrimental to protected trees. It would conflict with Policy CH3 of the CBLP, which sets out general development criteria including the integration, protection and enhancement of attractive or important features such as trees, and the retention of existing individual or groups of trees that contribute positively to the area, including by ensuring sufficient private garden space would be provided that would not be overshadowed by tree canopies. It would also be inconsistent with Policy CH6 of the CBLP, which among other things requires that any loss of trees must be mitigated, and Policy CH2 of the CBLP, which among other things requires development to respond to and reinforce locally distinctive patterns of development and landscape character.

Other Matters

30. I note that there would be a number of benefits associated with the proposal, including the provision of an accessible dwelling to the local housing stock. However, such benefits would be modest in relation to one dwelling and would not outweigh the significant harms I have identified above.

Conclusion

31. For these reasons, and having regard to all matters raised, I conclude that the appeal should be dismissed.

Catherine Jack

INSPECTOR