
Appeal Decision

Site visit made on 15 March 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 20th April 2017

Appeal Ref: APP/M3645/W/16/3164394

156-180 Whyteleafe Road, Caterham, Surrey CR3 5ED

- 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 Craig Hatton, Persimmon Homes Thames Valley against the decision of Tandridge District Council.
 - The application Ref TA/2015/1649, dated 3 September 2015, was refused by notice dated 3 June 2016.
 - The development proposed is demolition of no 172 Whyteleafe Road and construction of 59 new dwellings, open space and landscaping, with a new access onto Whyteleafe Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The right of appeal generally only extends to the original applicant. The name of the applicant on the planning application form was a Miss L Graham for Charles Church Ltd. The appeal form states that Mr Craig Hatton for Persimmon Homes Thames Valley is the appellant. I have received confirmation that Charles Church Ltd is part of the Persimmon Homes Group and that Miss L Graham is employed by Persimmon Homes Thames Valley. As such, I am satisfied that the applicant and appellant are from the same company. For the avoidance of doubt, I have used the details given on the appeal form in the header above.
3. I have used the address given on the Council's decision notice as this provides the clearest and most accurate description of the site's location and avoids the use of largely descriptive information provided in the original application form.
4. The original application referred to 58 dwellings. It is clear from the submitted plans and the appellant's submissions that the proposal evolved over the course of its consideration by the Council. This is evidenced by the submission of amended plans. I am satisfied the Council considered the application on the basis of 59 dwellings and I have also considered the appeal on this basis. Accordingly, I have amended the description of development in the header to properly reflect this change.

Main Issues

5. The main issues are the effect of the development on:
 - (a) the character and appearance of the area;
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- (b) the living conditions of the occupants of 170 and 174 Whyteleafe Road with particular regard to noise and disturbance and 43 Anne's Walk in relation to privacy; and
- (c) the living conditions of future occupants, with regard to amenity space and privacy.

Reasons

Character and appearance

6. The site is within the defined settlement boundary of Caterham and comprises parts of the large rear gardens of a number of dwellings situated along Whyteleafe Road. The site is a largely open and verdant area, with a number of trees across the site, some of which are protected by Tree Preservation Orders (TPO), and other mature planting, including hedgerows. The current appearance of the site shifts between unmaintained and overgrown gardens to a large and well-manicured lawn. Existing fencing and other boundary treatments exist within the site.
7. The site is bounded by Whyteleafe Road to the west, Audley Primary School and St Francis Roman Catholic Primary school to the south, an area of woodland to the east and Anne's Walk to the north. Whyteleafe Road maintains an overriding character of a linear row of detached housing in reasonably wide and spacious plots, set back from the road behind front gardens and drives. Anne's Walk is a long cul-de-sac of semi-detached dwellings which stretches out from Whyteleafe Road and extends part way behind its frontage. There is an existing access into the site from Anne's Walk, though this would not be utilised as part of the development. Instead, the development would have a single point of vehicular access created through the demolition of 172 Whyteleafe Road.
8. The existing character of the site would change significantly as a result of the development. However, Policy DP8 of the Tandridge Local Plan 'Part 2: Detailed Proposals' (2014)(LP) supports the principle of redevelopment in backland locations, subject to a number of criteria. A change in the nature of the site would be an inevitable consequence of this. The Council has not raised concerns in relation to the principle of development in this location. Rather, it considers the specifics of the scheme to be inappropriate. This would be consistent with the conclusion taken by an Inspector¹ considering an appeal at No 186 who recognised that there are already a number of culs-de-sac in the area which are likely to have been built on garden land and which may have involved the demolition of properties to gain access. Additional examples would not necessarily be harmful in principle as a result.
9. Nonetheless, Policy DP8 also expects backland development to present a frontage in keeping with the existing street scene or the prevailing layout of streets in the area, including frontage width, building orientation, visual separation between buildings and distance from the road. Policy DP8 also seeks to resist piecemeal development and the creation of multiple points of access.
10. The proposed access would be quite wide and create a significant gap in the existing frontage. My attention has been drawn to a number of new accesses

¹ Appeal references: APP/M3645/A/13/2209654 & 2209687

that have either been recently implemented or which have permission. To an extent, these demonstrate that the creation of a new access would not be unusual in this area in this area. However, particular concerns have been raised by a number of interested parties in terms of a recent planning permission for 10 dwellings recently granted to the rear of 162-170 Whyteleafe Road. The information I have received indicates that this would be served by its own access between No 170 and No 168.

11. I have not been provided with full details of this decision, but it would be reasonable to assume when looking at other examples in the vicinity of the site, that a vehicular access for 10 dwellings would be different in appearance and more visually prominent than an access drive to an individual dwelling. Whilst the physical distance between No 170 and No 168 may not change, the visual relationship between the dwellings and the appearance of the street scene inevitably would. I have no reason to assume that this development would not go ahead.
12. I do not accept the appellant's argument that the development would not lead to an additional access. While recognising that there is a driveway serving No 172, the demolition of the dwelling and replacement with an access road serving 59 dwellings would result in something fundamentally different in both visual and functional terms. If I were to allow this appeal and the proposals either side of No 170 were implemented, then this would leave that dwelling in a somewhat isolated and disjointed position, sitting uncomfortably between two estate accesses. The dwelling would appear disconnected from others in the street and the result would be incongruous and interrupt the general pattern, rhythm and grain of development along the street.
13. While gaps in the frontage may be a recent and increasing characteristic of the street scene, a proliferation of access points in such close proximity to each other would only serve to undermine the prevailing character of the area and diminish the quality of the environment. There is clearly significant pressure for development in this area and a preponderance of new unrelated access points within a short distance of each other is likely to undermine any sense of a coherent and well planned approach to backland development in the area. This would be at odds with the intentions of Policy DP8 which seeks to resist a piecemeal approach to development.
14. I have noted the previous Inspector's comments on the creation of a new access and backland development. However, I do not consider that his conclusions or interpretation of Policy DP8 means that any and all proposals to create new accesses along this street would be acceptable in practice. This is particularly where multiple points of access within a relatively short distance would undermine the character of the street. I also note that in the appeals referred to, the Inspector dismissed a scheme he considered harmful to the rhythm and spacing of the street scene and clearly gave weight to the existing character of Whyteleafe Road. The presence of other access points also does not mean that there cannot be any consideration given to the cumulative effect of adding more on the appearance of the street. I therefore find that the creation of an additional and significant gap in this part of the street, in association with the potential for other nearby access points, would be materially harmful to the character and appearance of the area.

15. The appellant has drawn my attention to the site's identification within an emerging Local Plan. The information provided indicates that it has been identified for housing and that a yield of 68 units has been assumed. However, I have not been provided with any details on the status of the plan, the stage it is at in its preparation, the number of unresolved objections there may be or full details of the site's inclusion in the document. Therefore, in line with Paragraph 216 of the National Planning Policy Framework (the Framework), I have given this only limited weight in my decision.
16. Nonetheless, the appellant is of the view that if the Council expect the site to come forward then they must be anticipating an access from Whyteleafe Road. It is not clear to me from the evidence that the proposed access is the only viable solution to accessing the site or that the Council has accepted the demolition of No 172 in principle. Moreover, there is nothing to suggest that by identifying the site in this plan that the Council has accepted multiple access points within a few metres of each other along the street. As such, this does not outweigh my concerns over the proliferation of access points along this part of the street or the conflict with Policy DP8.
17. In terms of the remainder of the scheme, it would be fair to conclude that the layout of the development, and the design and nature of a number of the dwellings proposed, would differ considerably from the character of Whyteleafe Road and Anne's Walk. In particular, I have noted the inclusion of flats, town houses and terraced housing within the scheme. These did not appear to be prevalent in the immediate vicinity of the site. The development would therefore create some variety in the built form of the area.
18. Variety does not necessarily lead to harm. The site is sufficiently large and self-contained to be able to create its own character and design context. From publically accessible locations, the development would generally only be glimpsed in gaps along Whyteleafe Road and to an extent through the access. In this regard, the development would not be viewed significantly differently from Whyteleafe Road to other forms of backland development in the area. From such locations, the difference in character between the development and existing residential streets would not be particularly noticeable or harmful in nature.
19. The development would be more prominent from the end of Anne's Walk, from private views and the schools. The apparent difference in character would be more marked, though the new dwellings would mainly only be seen in the context of the wider development itself and not the existing streets. The location of the site behind the strong building line of Whyteleafe Road also creates something of a break from the prevailing character of the area. As such, I see no particular reason why the development need mirror those on the neighbouring streets or that the lack of consistency of design would necessarily be harmful.
20. The density of development would be higher than surrounding streets, but at around 23 dwellings per hectare, it would not be considered to be a particularly high density development in its own right. The dwellings would not appear cramped in their plots and the layout would not result in an over intensive form of development across the site. The scheme as a whole also includes a number of areas of open space and landscaping that would allow the dwellings to breathe and help soften the overall visual impact of the development.

21. The flats associated with dwellings 5-10 and 11-16 are likely to be the most visible from outside the site as they would be the adjacent to Anne's Walk. The incorporation of accommodation in the roof space, the pitched roof profile, gable features and use of dormers all help to ensure they would not be of an excessive height and would help them blend into the wider character of the development. Moreover, while clearly different in scale to the dwellings on Anne's Walk, the contrast would not be jarring and neither block would be overly dominant or intrusive.
22. The other three storey dwellings are generally closer to the middle of the site and are of a style that would complement the housing around them. There would only be two terraced blocks and these would be only three dwellings in length. As such they would not represent a significant proportion of the overall scheme. The majority of dwellings would still either be detached or semi-detached in nature. The design of those dwelling types identified by the Council as being out of keeping with the design concept for the site would not be objectionable in their own right. Therefore, I see nothing inherently harmful in the density, layout or design of the dwellings proposed.
23. This does not alter my view, however, that the access to the site would have a harmful impact on the character and appearance of Whyteleafe Road. Accordingly, there would be conflict with LP Policy DP8 which seeks to ensure that the backland development of gardens would maintain the character and appearance of the area, presents a frontage in keeping with the existing street scene and does not result in multiple access points onto the existing frontage. I also consider the harm to the character of Whyteleafe Road would result in conflict with LP Policy DP7 and Tandridge District Core Strategy (2008) (CS) Policy CSP18 which seek, amongst other things, to ensure development respects local character and context and is in keeping with the prevailing streetscape.

Living conditions – existing occupants

24. The creation of a new access road between No 170 and No 174 would clearly lead to an increase in vehicular movements passing by the side of these dwellings. This is likely to lead to some increase in noise levels. However, as noted above, there are a number of access roads leading to culs-de-sac along Whyteleafe Road already and at least one more with planning permission to the side of No 170. These have a similar relationship with neighbouring dwellings as would be created here. The Council have not provided any evidence which demonstrates the proposed access would generate a more harmful level of noise or disturbance compared to those already in place or permitted.
25. This scheme would be larger than some of the other backland development in the area and thus likely to generate a greater number of vehicular movements. Nonetheless, it is not necessarily unusual for dwellings to be located to the side of roads and I am satisfied there would be sufficient separation between the road and the side of the dwellings to ensure there would be no undue harm to living conditions. I have also noted the Council's suggestion that a condition could be imposed requiring acoustic fencing to be installed along the route of the access. If I had been minded to allow the appeal, then this would have been an appropriate measure to further protect the existing occupants from unacceptable levels of noise and disturbance.

26. It would be more unusual for there to be access drives on either side of a dwelling. However, as permission has already been granted for the access between No 170 and No 168, the Council clearly did not consider this would cause harm. That access would cater for only 10 dwellings and thus the number of movements associated with it would not be high. As such, it would be unlikely to generate significant levels of noise in its own right. As noted above, with the proper mitigation in place, the access drive before me would also not lead to any material harm to the living conditions of the occupants of this dwelling. While the levels of noise experienced by the occupants would undoubtedly increase, I am not convinced that even if both drives were implemented it would lead to an unacceptable cumulative impact on the living conditions of these residents.
27. Whilst not referred to in their reason for refusal, the Council have also raised a concern over the potential for occupants of Plots 17-19 to overlook the rear garden of 43 Anne's Walk. The Council's evidence suggests that the proposed dwellings would be around 16m from the garden. Owing to the tapering of the common boundary, Plot 19 would be further away than Plot 17, but the dwellings would be arranged parallel to the garden and thus their rear windows would face the garden of No 43. This would inevitably lead to an increase in the extent to which this garden is overlooked. However, it is not unusual for there to be some level of overlooking in a residential area and having considered the relative distances involved, and the indication on the plans of enhanced screening along this boundary, I am satisfied this would not lead to an unacceptable impact on the living conditions within No 43.
28. As such, there would be no material harm to the living conditions of the occupants of 170 and 174 Whyteleafe Road or 43 Anne's Walk as a result of the development. Accordingly, there would be no conflict with CS Policy CSP18 or LP Policy DP7 which seek, amongst other things, to ensure development does not have an unacceptable impact on the amenity of existing occupants.

Living conditions – future occupants

29. The Council have highlighted a concern in terms of the relationship between the dormer windows of No 43 Anne's Walk and one of the blocks of flats (dwellings 11-16). The flats would be around 20-22m from the side of No 43. As such, I am satisfied there would be sufficient separation between the buildings to ensure no undue impact on the privacy of future occupants of the scheme in terms of seeing into habitable rooms. As noted above, some degree of overlooking into garden space is to be expected in a residential area. Therefore, while the relationship between buildings would allow some overlooking into the shared amenity space, I do not consider the resulting relationship would be unusual or harmful to living conditions.
30. A more general concern about overlooking has been raised by the Council in their reason for refusal. They have not pointed me in the direction of any particular part of the development that they are particularly concerned about. The relationship between dwellings appears to be fairly typical of an estate such as this. Subject to the imposition of the Council's suggested conditions requiring obscured glass or the removal of permitted development rights, there is nothing in the layout of the development or relationship between dwellings that would lead to an unacceptable level of overlooking, either in terms of being able to see into habitable rooms or garden space. The imposition of such

conditions would be a reasonable and accepted approach to ensuring privacy would be protected.

31. The Council have indicated their concern that a number of dwellings would not provide adequate garden space to serve a family dwelling. The gardens would be smaller than those of the dwellings fronting Whyteleafe Road. Nevertheless, I have not been pointed in the direction of any space standards against which the size of gardens should be assessed and there is nothing to suggest that the space provided, including that within plots 20-42, would not be commensurate with the size of the dwellings. I appreciate that the space provided would not be generous, but it would be adequate for such things as sitting out, drying clothing or providing outdoor storage. The development would also include a number of areas of open space within the site. These could clearly not be used for domestic purposes, but they would serve as areas for informal recreation and create a greater sense of openness across the site. As a result, I do not consider the level of available garden space would cause material harm to the living conditions of future occupants.
32. In conclusion on this matter, I am satisfied that the development would not result in unacceptable living conditions, either in terms of privacy or the provision of amenity space. Accordingly, there would be no conflict with CS Policy CSP18 or LP Policy DP7 which seek, amongst other things, to ensure development provides a satisfactory environment for the occupiers of new development.

Other matters

33. A signed and dated S106 Agreement was submitted in support of the appeal which would secure the provision of affordable housing and a Landscape and Ecological Management Plan (LEMP). However, given that I have dismissed the appeal on other substantive issues, it is not necessary for me to examine the provisions secured, other than to confirm that I have taken the affordable housing provision secured as a benefit of the proposal. The other provision of the agreement relates only to the mitigation of potential harm arising from the development itself and is thus only a neutral factor.
34. The appellant's original planning statement challenged the basis of the Council's assertion that it had a five year supply of deliverable housing land as required by Paragraph 47 of the Framework. However, this issue was not addressed in the Council's officer report and does not form part of the appellant's case. No up-to-date information has been provided in relation to the Council's housing land supply. As such, it would not be possible for me to conclude with any certainty that the Council does not have a five year supply. The relevant policies in the CS and LP put to me all maintain a high degree of consistency with the Framework, particularly in their objectives in relation to the creation of a high quality built environment. I have no reason, therefore, to give anything other than full weight to the policies of the development plan.
35. Notwithstanding this, while I have no up to date or detailed information relating to the housing land supply before me, I have had regard to the benefits of delivering 59 dwellings, including the affordable housing provision, in a location with good access to facilities and where the LP gives some support in principle to development. Nonetheless, while the Framework supports the delivery of housing, it also attaches great importance to the design of the built

environment and improving the character and quality of an area and the way it functions. Policy DP8 is entirely consistent with the Framework in this regard.

36. Therefore, the benefits of the proposal do not outweigh my overriding concerns in relation to the impact on the character of Whyteleafe Road and resulting conflict with the development plan. In addition, even if I were to conclude that the Council could not demonstrate a five year housing land supply and its relevant policies were out of date, the adverse impacts I have identified significantly and demonstrably outweigh the benefits when considered against the Framework as a whole.

Conclusion

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

S J Lee

INSPECTOR