
Appeal Decision

Site visit made on 7 February and 18 April 2017

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 25 April 2017

Appeal Ref: APP/M3645/W/16/3156513

12-18 Southview Road, Warlingham, Surrey CR6 9JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Aventier Limited against the decision of Tandridge District Council.
 - The application Ref TA/2015/1517, dated 13 August 2015, was refused by notice dated 18 February 2016.
 - The development proposed is the demolition of four dwellings and erection of five blocks containing 36 2- & 3-bed flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with access, layout and scale to be determined. Appearance and landscaping are reserved for subsequent approval.
 3. Drawing number:8023-REFUSE-01 shows the repositioned bin stores and is not included in the list of plans within the decision notice. The plan would appear to pre-date the Council's decision, but it is unclear whether it was before the Council at the time of the application. However, the Council would have had an opportunity to consider it before submitting its appeal statement. I am therefore satisfied that the Council would not be prejudiced were I to determine the appeal on the basis of this plan.
 4. The drawings showing the elevations and floor plans of the individual blocks are inconsistent with each other in respect of the proposed balconies. In addition, the light-wells shown on the sections do not accord with those shown on the plans. I have assumed that the light-wells will be provided in a similar manner to that shown on the various layout plans whilst also noting that there appears to be inconsistencies between the site layout plans and the light-wells shown in respect of the individual flats, and the street scenes and sections across the site. Given the number and nature of the inconsistencies it is difficult to ascertain precisely what is proposed, and I am not convinced that this matter could be satisfactorily be addressed by way of conditions.
 5. The proposal relates to five blocks which are referred to in a variety of ways. In my decision I have referred to them by the street numbers shown on the submitted plans.
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6. In February 2015 the Council granted planning permission for the replacement of the existing dwellings with four larger dwellings. Based on the submitted information it would seem that the proposed dwellings did not extend into the site to a significantly greater extent than the existing dwellings. Subsequently, planning permission was granted for five dwellings on the site in June 2015. I understand that the proposed dwellings were similar in terms of their footprint, height and position to the appeal proposal. However, it is unclear from the submitted information whether these dwellings included the provision of basements and light-wells.

Main Issues

7. I consider the main issues to be:

- the effect of the proposal on the character and appearance of Southview Road;
- Whether the proposal would make adequate provision for parking;
- Whether the proposal would provide satisfactory living conditions for future occupants with particular reference to outlook, and the location of refuse facilities and car parking provision;
- The effect on adjoining occupants with particular reference to privacy and visual dominance;
- The effect of the proposal on protected species; and
- Whether the proposal would make satisfactory provision for affordable housing.

Reasons

Character and Appearance

8. The appeal site is located on the eastern side of Southview Road, which is accessed via Well Farm Road. Southview Road is a privately owned road and the appeal site includes the road and the land on the opposite side of the road adjacent to the railway embankment. It is a steeply sloping site, although it becomes progressively shallower towards the south where it adjoins 20 Southview Road. The site is currently occupied by four dwellings, each built on a level terrace above the road. The driveways slope downwards towards the road. The garages serving the properties are located at the road level.
9. The hillside to the rear of the dwellings is wooded and there is a narrow strip of woodland adjacent to the railway embankment. A public footpath, known as Jacobs Ladder, runs adjacent to the boundary with 12 Southview Road. There are numerous mature trees adjacent to the footpath, as well as to the front of the dwellings. Overall, the road has a spacious sylvan character due to the low density development, the narrow road and its wooded setting.
10. Policy CSP18 of the Tandridge District Core Strategy (adopted 2008) seeks a high standard of design that reflects and respects the character, setting and local context, including those features that contribute to local distinctiveness. It also requires development to take account of the topography of the site, important trees or groups of trees. It aims to protect the wooded hillsides in the built-up areas by ensuring that new development does not adversely affect the character of these areas and that there is no overall loss of tree cover. In addition, policy DP7 of the *Tandridge Local Plan Part 2: Detailed policies 2014-*

2029 requires new development to integrate with its surroundings, and to reinforce local distinctiveness and landscape character. Amongst other matters, proposals should be in keeping with the prevailing landscape or streetscape, and should not result in overdevelopment or unacceptable intensification. Policy DP8 sets out the circumstances in which the redevelopment of garden land will be permitted and requires proposals to maintain the character of the area and present a frontage in keeping with the existing street scene.

11. It is proposed to replace the four existing dwellings with five blocks of flats. These would be four storeys high overall, with the uppermost floor contained within a crown roof. The lower floor would take the form of a basement. A 'U-shaped' driveway would serve blocks 12A to 16. There would be a separate access and parking area to serve Block 18. Parking would be provided adjacent to the driveways and by parallel parking bays on the opposite side of Southview Road.
12. The existing dwellings are part one, part two storey with the upper floor partially accommodated within the roof space. The proposed dwellings would be two storeys higher, and the ridge line would be higher than that of the existing dwellings. Whilst the difference in height relative to the skyline would not be particularly great in itself, the proposed buildings would be much taller overall and substantially greater in depth. Blocks 12A and 18 would be situated considerably closer to the front boundary of the site. Due to the much greater scale and height of the proposed buildings they would have an overbearing and domineering presence in views from Southview Road and would not reflect the existing semi-rural character. The submitted plans are unclear as to the extent to which the proposed basements would be visible. Although the elevations suggest that they would be below ground level, various drawings showing sections through the proposed buildings indicate otherwise. Should the basements be visible above the adjacent ground level they would add to the overall bulk and scale of the buildings in views from Southview Road.
13. The site comes within an area designated as a wooded hillside and many of the trees on the appeal site are covered by a Tree Preservation Order (TPO). The submitted arboricultural report relates to a previous scheme for four dwellings and only limited information is provided in terms of the effect of the proposal on the trees on the appeal site. The Council suggest that the access and parking areas would encroach upon the root protection areas (rpa) of T12, T13, T14, T15, T31 and T32. Based on the submitted evidence I share this view. In addition, it would seem probable that the proposal would also encroach upon the rpa of T2 and would involve the loss of T1 and T3. The tree survey does not include the land adjacent to the railway embankment, which accommodates a number of mature trees as well as numerous self-seeded trees. These trees contribute to the verdant character of the road and it seems probable that the majority would need to be removed in order to accommodate the proposed parking. The loss of these trees would significantly harm the character of Southview Road and would conflict with policy CSP18.
14. Only limited evidence has been submitted in relation to the change in levels necessary to accommodate the proposed dwellings. The submitted street scenes indicate that the ground floor would be lower than the existing ground level. In some instances it could be that this would be accommodated by the forward projection of the proposed building relative to the dwelling it would

replace. Nevertheless blocks 12 and 14 would not extend forward of the front building line of the existing dwelling and therefore it would seem that the ground floor, as well as the basement, would require extensive excavations. No information has been submitted to indicate how this considerable engineering operation, together with any works required in connection the provision of the parking areas and access road, could be facilitated without undue harm to the trees on the appeal site. Whilst landscaping is a matter reserved for future determination, the impact of the proposal on the trees, and any necessary retaining walls and structures has significant implications for the character and appearance of the area, and therefore is a material consideration in respect of this appeal.

15. The proposal includes extensive areas of hardstanding to accommodate the level of parking proposed. The refuse storage sheds would be about 2 metres high and would occupy an elevated position adjacent to the parking areas. These elements would be a prominent feature in views from Southview Road.
16. The proposal would fundamentally change the character of Southview Road. The 4 modestly proportioned dwellings, situated within a woodland setting would be replaced with five substantial buildings surrounded by parking. The semi-rural, sylvan character that typifies this part of Southview Road would be replaced by a distinctly urban character and would not comply with policy DP8.
17. The Council does not object to the scale and design of the proposed buildings which it considers to be similar to the previously permitted scheme for five dwellings. However, for the reasons given above, I take a different view and consider that the proposed buildings would be harmful to the character and appearance of the area. Whilst the extant planning permission is a significant material consideration in the context of this appeal, the current proposal differs from the previous scheme in terms of the extent of the appeal site, the parking arrangements, and the impact of the proposal on the trees. Furthermore, for the reasons given above, the implications of the proposed basements on the appearance of the scheme are uncertain, and based on the submitted information, I cannot be sure that the basements formed part of the previous scheme. Therefore the appeal scheme is not comparable with the previously permitted scheme for five dwellings and the harm arising from it is not justified by the extant permission.
18. I conclude that the proposal would cause considerable harm to the character and appearance of Southview Road and would fail to comply with development plan policies CSP18, DP7 and DP8.

Parking

19. The proposal would provide a total of 40 car parking spaces, 8 of which would be on the opposite side of Southview Road. Both parties also make reference to the provision of 42 cycle spaces, however it is unclear from the submitted plans where these would be located.
20. The Council state that the level of parking proposed would fall short of its adopted standard, and would be likely to lead to on-street parking within the surrounding residential roads. The *Tandridge Parking Standards Supplementary Planning Document* (SPD) was adopted in 2012. It sets out parking standards for residential and non-residential development. In the case of the appeal proposal it requires the provision of 54 parking spaces.

21. Paragraph 39 of the National Planning Policy Framework (the Framework) states that where a local planning authority sets parking standards it should take account of a number of factors including the accessibility of the development, the availability of and opportunities for public transport and local car ownership levels. Whilst the parking standards within the SPD take account of the relatively high car ownership levels within the District, they are District wide standards and do not make any allowance in terms of the accessibility of a site to public transport.
22. The appeal site is located about 450 metres from Whyteleafe South railway station, and 1.2km from Upper Warlingham and Whyteleafe stations, and it close to a number of bus routes. Consequently occupants of the proposed flats would not be unduly reliant on the use of a car. The Highway Authority is satisfied that the shortfall in parking provision is acceptable given the proximity of the site to public transport facilities. Based on the available evidence I have no reason to take a different view.
23. The Council refer to two previous appeal decisions¹ which it suggests have supported its approach in relation to the SPD. In the case of 19 Station Avenue, Caterham, the inspector considered that some flexibility in relation to parking provision was appropriate, but found the absence of any parking provision to be unacceptable. In the Firs Close, Caterham decision, the inspector found the parking provision to be inadequate, however, there is no evidence to indicate that this site was situated in a comparable location in terms of accessibility to public transport. Therefore these decisions do not appear to be comparable with the appeal proposal and do not alter my view that the proposal would make adequate provision for off-street parking.

Living Conditions of Future Occupants

24. In the case of some of the ground floor and first floor bedrooms, the only window is situated in the flank elevation. The Council submits that this would not provide a satisfactory living environment for future occupants and would conflict with policies CP18 and DP7 of the Local Plan. Together these policies seek a high standard of design and aim to ensure that proposals provide satisfactory living conditions for the occupants of existing and new developments.
25. Paragraph 56 of the Framework confirms that the government attaches great importance to good design, which is a key aspect of sustainable development, and should contribute positively to making places better for people. Paragraph 57 states that it is important to plan positively for the achievement of high quality and inclusive design for all development.
26. The ground floor front flat within Block 16 includes a single bedroom where the sole window would face towards the flank elevation of Block 18. The window would be separated from the boundary by a distance in excess of 4 metres, and would be more than 5 metres from Block 16. Taking account of the distance from Block 18 and the staggered building line, I consider that this bedroom would provide an acceptable outlook for future occupants.
27. The windows to one of the ground floor and first floor bedrooms in Block 14 would face towards the flank elevation of Block 12. In the case of Block 12 the ground floor window to the single bedroom of the front flat would face towards

¹ APP/3645/A/13/2192750 & APP/M3645/A/13/2202155

the flank elevation of Block 14. The separation between Block 12 and Block 14 is considerably less than in the case of Blocks 16 and 18, moreover, the buildings share a similar alignment. I consider that the outlook from these windows would be unacceptably poor. Whilst the Council concedes that in some instances secondary windows or windows to studies can be obscure glazed, this would not be appropriate in the case of the sole window to a bedroom.

28. Block 12A would have a similar layout to Block 12 and the windows would face towards Block 12. There is a greater degree of separation, by comparison with that between Blocks 12 and 14, however, the window would be located close to the parking space located between the blocks. In my view this would provide a poor outlook for future occupants. In addition, in the case of all of the proposed blocks, the access path serving the flats would be located adjacent to the ground floor bedroom windows and would limit the privacy to these rooms.
29. I therefore find that some flats would not have a satisfactory outlook, in addition the privacy to a number of the flats would be impaired, and in this respect the proposal would fail to provide satisfactory living standards.
30. Following the revision to the layout shown on drawing 8023-REFUSE-01 I am satisfied that the refuse storage facilities would be conveniently located for future occupants. I have found above that the proposal would make satisfactory provision for car parking, therefore the proposal would provide conveniently located parking for future occupants.
31. I therefore conclude that although the proposal would make satisfactory provision for refuse storage and parking, it would fail to provide satisfactory living conditions for future occupants in terms of outlook and privacy and would fail to comply with policy DP7 or deliver the high quality design sought by the Framework.

Living Conditions of Adjoining Occupants

32. The appeal site is adjoined by the W H Members Club at 10 Southview Road. It is a long established naturist club, with tennis courts and other facilities close to the boundary with the appeal site. The front elevation of the proposed building would broadly align with the south eastern boundary of the tennis courts and would be unlikely to give rise to any significant overlooking. The rear elevation would extend close to an area of rising land. Whilst there would be a balcony at first floor level, having regard to the rising land and the trees adjacent to both boundaries, I do not consider that the proposal would give rise to any significant overlooking of the club.
33. The dwelling at 20 Southview Road has a similar alignment to the existing dwelling at 18 Southview Road. The proposed dwelling would be slightly closer to 20 Southview Road than the two storey element of the existing dwelling and would extend a considerable distance forward of it. Due to its height and forward projection, it would have an overbearing impact on the outlook from the front of 20 Southview Road. When taken together with the outlook from the bedroom windows to the flank elevation I consider that the proposal would give rise to an unacceptable sense of enclosure.
34. Due to the steeply sloping rear garden, the main amenity area to 20 Southview Road is the area closest to the house, which includes a seating area between the two dwellings. This area is well screened by vegetation, but would be situated almost opposite the entrance to the proposed flats and at a similar

level. This route would also provide access to the rear amenity area serving the proposed flats. Given the limitations of the garden to 20 Southview Road and the number of flats proposed, I consider that the level of activity would be likely to adversely affect the privacy of the occupants of 20 Southview Road.

35. Overall I conclude that that the proposal would not adversely affect the privacy of the W H Members Club, but it would harm the living conditions of the occupants of 20 Southview Road.

Protected Species

36. The appellant submitted a Phase 1 Ecological Assessment, dated May 2014, with the application. This found the site to be highly suitable for bats. Evidence of bats at 16 and 18 Southview Road was found. The report stated that in the absence of further survey information the impact of development which involved the demolition of the existing buildings on the site could not be adequately addressed. It recommended that further Phase II emergence/re-entry surveys of the properties to determine the current level of ecological importance of the properties to roosting bats. It also recommended that any mature trees due to be removed should be inspected for roosting bats. The survey also found that the appeal site and adjacent land had potential for dormice and reptiles and advised that further surveys were required.
37. Bats, dormice and some reptiles are European protected species. The presence of a protected species is a material consideration when considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Circular 06/2005: *Biodiversity And Geological Conservation – Statutory Obligations And Their Impact Within The Planning System* states that it is essential that the presence or otherwise of protected species, and the extent to which they may be affected by the proposed development, is established before the planning permission is granted. It advises that the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.
38. In the case of the appeal site, there is credible evidence that bats, dormice and reptiles may be present on the site and could potentially be harmed by the proposal. In the absence of a survey to indicate whether these protected species are present and how they use the site, it is not possible to mitigate against any potential harm. Moreover the submitted survey states that it is only valid for a period of 12 months, therefore there is a need for an up to date survey.
39. The appellant states that the proposal is similar to the previously permitted scheme in terms of siting and scale, and therefore should also be found to be acceptable. It is also stated that Surrey Wildlife Trust did not object to a previous application. There is insufficient information before me to ascertain the factors which were taken into account in respect of the previously permitted scheme. Moreover, these considerations do not overcome the need to establish the presence or otherwise of protected species on site prior to granting planning permission.
40. Therefore the basis of the submitted information I unable to conclude that the proposal would not harm any protected species on the site. It would therefore fail to comply with policy DP19 which states that planning permission for development directly or indirectly affecting protected or priority species will

only be permitted where it can be demonstrated that the species involved will not be harmed, or appropriate mitigation measures can be put in place.

Affordable Housing

41. The Council's third reason for refusal refers to the failure of the proposal to make provision for affordable housing in accordance with policy CSP4 which requires proposals for 15 or more dwellings within built-up areas to provide 34% affordable housing.
42. The appellant does not dispute the need for affordable housing and states that this matter could be addressed by way of a unilateral undertaking. I also note that affordable housing is annotated on the submitted plans, and do not doubt that it is the appellant's intention to provide it. However, no unilateral undertaking has been submitted and I therefore conclude that the proposal would fail to make satisfactory provision for affordable housing and would fail to comply with policy CSP4.

Other Matters

43. I have taken account of the previous planning permission for the replacement of the existing dwellings. The appeal scheme differs from the previous schemes in that it proposes a considerably larger number of dwellings. It also proposes a much greater extent of parking and involves a larger site and therefore it is not comparable with the appeal proposal.
44. I have had regard to the presumption in favour of sustainable development within the Framework. The proposal would deliver some benefits in terms of the provision of housing in an accessible location. These considerations would contribute towards the social and environmental dimensions of sustainable development. The proposal would provide economic benefits through the creation of jobs during the construction period. However, it would fail to deliver the high quality design sought by the Framework in terms of its effect on the character and appearance of Southview Road, the impact on the trees and the living conditions of future occupants. It would also harm the living conditions of the occupants of 20 Southview Road and would fail to minimise the effect on biodiversity in accordance with section 11 of the Framework. Consequently, it would not satisfy the environmental dimension of the Framework and, when considered in the round, the proposal I would not be sustainable development. Therefore there are no material considerations that justify a decision other than in accordance with the development plan.

Conclusion

45. I have found above that the proposal would provide a satisfactory level of parking provision for future occupants. It would however, give rise to substantial harm to the character and appearance of Southview Road, fail to provide satisfactory living conditions for future occupants, fail to safeguard protected species or make adequate provision for affordable housing. Therefore the proposal would fail to comply with the development plan when considered as a whole.
46. For the reasons given above I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR