

## Appeal Decision

Site visit made on 15 May 2017

**by Joanna Reid BA(Hons) BArch(Hons) RIBA**

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

**Decision date: 5 June 2017**

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**Appeal Ref: APP/M3645/W/17/3167234**

**Land adjacent to 6 Crewes Lane, Warlingham CR6 9NS**

- 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 J Muscat against the decision of Tandridge District Council.
  - The application Ref TA/2016/1662, dated 8 September 2016, was refused by notice dated 11 November 2016.
  - The development proposed is erection of a detached dwelling and associated parking.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr J Muscat against Tandridge District Council. This application is the subject of a separate Decision.

### Main issues

3. The main issues are the effect that the proposal would have on:
  - the character and appearance of the surrounding area, and
  - the living conditions of the future occupiers, with regard to daylight and sunlight, and outlook.

### Reasons

4. Policy CSP1 of the *Tandridge District Core Strategy* (CS) aims for development to take place within existing built up areas including Warlingham. Whilst it was referred to in the Council's reasons for refusal, because the Council says that there is no objection to the principle of development in the urban area, there would be no conflict with this Policy.

### *Character and appearance*

5. The appeal site is within a mainly residential area on the north-west side of the junction of Crewes Lane with Limpsfield Road. The site is a little above the level of Limpsfield Road, and it adjoins the back and side boundaries of dwellings at 2 Crewes Avenue and 6 Crewes Lane respectively. It includes 4 oak trees (the protected trees), which are subject to Tandridge District Council Tree Preservation Order No. 11, 2003. The protected trees make an important positive contribution to the character and appearance of the area and to the roughly northbound and southbound views along Limpsfield Road.

6. The nearby dwellings on the north-west side of Crewes Lane include detached bungalows with fairly short back gardens, which are set back a similar distance from the lane in fairly wide plots. Their simple designs and expansive main roofs are important to the suburban character. The porch at 8 Crewes Lane and the front 'bay' at 10 Crewes Lane are subservient to their wide main roofs. On the opposite side of Crewes Lane, the simple hipped-roofed 2-storey dwellings are also set back from the lane, and the openness over the side boundary fence to the long back garden of the similar 2-storey hipped-roofed dwelling on the opposite corner at 245 Limpsfield Road sustains the spacious character in the Crewes Lane street scene.
7. The proposed dwelling would be sited close to the common boundary with 6 Crewes Lane, and although its ground floor would be at a lower level and the dwelling would be narrower, it would be a little taller than the bungalow next door. Because the proposed dwelling would also be closer to the lane, it would be more prominent.
8. Due to its narrow width and its siting between the protected trees and 6 Crewes Lane, the proposed L-plan dwelling would look squeezed-in on its modest narrower corner plot. Due to the upper floor within its roof space, its bulky front dormer, prominent multiple gables, roof lights, double-height bays, and irregular form, the dwelling would look incongruous. Thus, the dwelling would be harmfully out of character with the simple designs of the low-profile bungalows in Crewes Lane and at odds with the form of the 2-storey dwellings nearby. Because the dwelling would be closer to Crewes Lane than the nearby bungalows, and its tall front-facing bay would project closer still, its prominent siting would draw attention to its discordant appearance. Thus, the proposal would be harmfully out of keeping with the street scene in Crewes Lane.
9. Also, due to its closeness to the protected trees, the dwelling would look harmfully cramped and enclosed. Because the protected trees should continue to thrive and grow, especially so since 2 former protected trees were felled in the interests of good arboricultural management, the increased overshadowing and sense of enclosure in and around the dwelling could, in future, lead to pressure from future occupiers for these important protected trees to be felled or seriously reduced, which would be to the considerable detriment of the character and appearance of the locality.
10. Therefore, I consider that the proposal would harm the character and appearance of the surrounding area. It would be contrary to CS Policy CSP18 and Policy DP7 of the *Tandridge Local Plan: Part 2 Detailed Policies 2014-2029* (LP) which seek a high standard of design and respect for the local context, including features that contribute to local distinctiveness, and the *National Planning Policy Framework* (Framework) which aims to always seek to secure high quality design and to take account of the character of different areas.

#### *Living conditions*

11. Due to the siting and layout of the dwelling, its shallow private garden would be on its north-west side. The garden would be enclosed by tall boundary fences to the north-west and north-east, with the roughly 2-storey rear extension at 6 Crewes Lane that is nearly as deep close by. Because of their siting, spread, number and height, the back garden would also be enclosed and, at times, overshadowed by the protected trees.

12. The appellant's daylight and sunlight report concludes that the daylight achieved in all of the habitable rooms would exceed the Building Research Establishment guidance in *Site Layout Planning for Daylight and Sunlight A guide to good practice* (the BRE guidance). As most rooms include south-east facing windows and there are roof lights in the upper floor, this would be expected. Whilst the report refers to 6 protected trees, the consultant's later letter says that the subsequent removal of the 2 protected trees would improve the results. The dwelling in the diagrams is also an earlier proposal, but as its footprint, siting and height would be similar to the proposal before me, the report's findings should not be significantly affected by its modified roof form and elevational details.
13. The report explains that, from the overshadowing diagrams, more than 50% of the amenity space would receive more than 2 hours of sunlight on 21 March and 21 June, which is in excess of the BRE guidance. However, the extent of the 'amenity space' is undefined. The report also explains that partial shade from deciduous trees will vary with the time of year and typically the English Oak would have a transparency factor of 20% in full leaf rising to 55% at the start of spring. It states that the assessment of overshadowing at 21 March will be on the basis of very little foliage and that the modelling accounts for transparency by reducing the effective crown size. So, whilst the shade would be dappled rather than total, more of the garden north-west of the dwelling would be overshadowed than is shown on the diagrams.
14. The diagrams show considerable afternoon shading from 1300 hours to 1700 hours on 21 June, the 'longest day' in each year. Although the future occupiers could reasonably expect to sit in the back garden then, there would be very little sunlight to enjoy. This would be contrary to the thrust of the BRE guidance, which states that if the whole of the garden is shaded by trees for a lengthy period of time in summer, the garden is probably too shady.
15. At present, there are gaps between the crowns of some of the protected trees, and there are few lower branches. However, in recommending the felling of 2 of the then 6 protected trees, the appellant's arboricultural consultant advised that their appearance was a significant factor and their position on the side of the main road gave them considerable prominence in terms of public amenity value. The felling of 2 protected trees was advised so that the remaining 4 protected trees would develop a better crown shape such that in years to come they would have a more natural appearance. This would also increase light penetration to the lower stems with the reasonable expectation of epicormic growth, which could be controlled so that strong individual lateral branches would form. He also noted that the protected trees have a long life expectancy.
16. As the protected trees have significant potential for future growth, this management should enhance their public amenity value. However, as the protected trees grow to infill the gaps between their crowns and develop lateral branches, the overshadowing in the back garden would increase. Due to the close relationship between the dwelling and the protected trees, and the shallow depth of the back garden, the future occupiers would be likely to find the increased shading unacceptable and the scale and form of the protected trees harmfully overbearing and oppressive. Thus, the proposal would be likely to lead to pressure on the Council to grant consent for damaging works to the protected trees, as referred to in my first main issue. Whilst the Council could

refuse such applications, the back garden would be unacceptably overshadowed and enclosed by the protected trees.

17. Therefore, I consider that the proposal would harm the future occupiers' living conditions with regard to sunlight and outlook. It would be contrary to CS Policy CSP18 and LP Policy DP7 which aim to provide a satisfactory environment for occupiers and to safeguard important trees, and the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

*Other matter*

18. An appeal against the refusal of planning permission for a similar proposal was dismissed by my colleague in her appeal decision dated 1 September 2014, ref APP/M3645/A/14/2220543. Whilst I have had regard to my colleague's findings, I have dealt with the proposal before me on its merits and in accordance with its site specific circumstances and relevant local and national policy and guidance.

**Conclusion**

19. For the reasons given above and having regard to all other matters raised, the appeal fails.

*Joanna Reid*

INSPECTOR