
Appeal Decision

Hearing held on 10 May 2017

Site visit made on 10 May 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 5th June 2017

Appeal Ref: APP/M3645/W/16/3161498

Land to the rear of Waldron House, 14/16 Godstone Road, Lingfield, Surrey RH7 6BW

- 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 Edward Pape of Keyseek Limited against the decision of Tandridge District Council.
 - The application Ref TA/2016/503, dated 22 March 2016, was refused by notice dated 6 July 2016.
 - The development proposed is demolition of existing timber framed buildings and the erection of 1 x 2-bed and 1 x 1-bed mews cottages along with 2 car parking spaces and landscaping works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Prior to the application's determination by the Council the design of one of the proposed dwellings was amended.
3. Further to the Supreme Court on 10 May 2017 issuing its judgement concerning the cases of Suffolk Coastal District Council v Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP and the Secretary of State for Communities and Local Government v Cheshire East Borough Council, the parties have been given the opportunity to comment on any implications this judgement may have on this appeal's determination. I have taken account of the comments made by the parties in relation to the Supreme Court's judgement.

Main Issues

4. The main issues are the effect of the development on:
 - the living conditions for its occupiers, with particular regard to outlook, outdoor space and parking;
 - the living conditions of the occupiers of neighbouring dwellings, with particular regard to privacy and whether or not the development would be overbearing;
 - the character and appearance of the area; and
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- the supply of commercial and industrial premises within Tandridge.

Reasons

5. The site is largely occupied by a mixed flat and pitch roofed 'L' shaped building, which is used for the storage of construction materials and equipment in association with the site's use as a builder's yard. There is also a small disused outside toilet and a small lean-to open sided structure. The development would involve the demolition of the existing buildings and their replacement with two dwellings, each with two floors of accommodation, with the upper floor being in the roof spaces. One of the dwellings (dwelling A) would have two bedrooms and its first floor bedrooms would be illuminated by rooflights. The second dwelling (dwelling B) would be a one bedroom chalet bungalow with two front dormer windows.

Living conditions for occupiers of the development

6. The design for dwelling A originally included dormers, which were changed to rooflights when the application was amended. The rooflights being substituted for the dormers in order to safeguard the privacy of the occupiers of neighbouring properties. The use of rooflights to illuminate dwelling A's bedrooms would provide the users of those rooms with a very poor level of outlook. I consider that the absence of a good level of outlook would result in oppressive living conditions within dwelling A's bedrooms. Dwelling A would be a quite small property and, given that characteristic, I consider that its bedrooms would not only be used as sleeping accommodation. Accordingly I am of the opinion that dwelling A's bedrooms should provide their users with a good level of outlook and the development would fail to do that.
7. The front courtyard would be a shared outdoor space and while it would include the whole of the area in front of the dwellings, only 34 square metres in its eastern half would be available as a garden/sitting out area¹. That is because the courtyard's western half would be needed as a manoeuvring space² so that cars exiting the development could join Godstone Road in a forward direction.
8. The focusing of the outdoor space activity in the eastern half of the courtyard could have adverse implications for privacy within the development because dwelling B's lounge patio doors would front the courtyard. Accordingly when the occupiers of dwelling A were using the external space they could look directly into dwelling B's lounge, while the occupiers of dwelling B could view their neighbours using the outdoor space at very close quarters. This issue with respect to mutual privacy within the development could mean that the use of the outdoor space would be quite limited. I do not consider that the outdoor space available to the occupiers of a purpose built flat development, such as St Christophers, is directly comparable with the situation that there would be within the appeal development.
9. Irrespective of the privacy concern I have, I consider that the usable outdoor space would be a very small area for the occupiers of two dwellings. While the Council does not have adopted outdoor space standards, I am nevertheless concerned that the usable space would be insufficient to meet

¹ Is the area highlighted in green on the block plan included between pages 125 and 126 of the appellant's appeal statement

² As demonstrated by the swept path analysis drawings submitted to the Council

the needs of the occupiers of this development. Although there are areas of public recreational space off Vicarage Road and Talbot Road, both of those areas are several minutes walking distance from the site and may therefore not be easily accessible to any occupiers of the development who were either less mobile or very young. I therefore consider that the public recreational areas would be inadequate substitutes for the development's limited outdoor space provision.

10. My attention has been drawn to the three houses at Gibbs Mews, which have no private outdoor space provision. The officer report for those houses includes no assessment of its effect on the living conditions for its occupiers. There is therefore no indication of how the issue of outdoor space provision was considered when the Gibbs Mews application was determined by the Council. It is therefore not possible for me to reconcile the differences in approach taken by the Council with respect to the appeal and Gibbs Mews schemes. I am, however, not persuaded that the Gibbs Mews decision negates the inadequacy of the appeal scheme's outdoor space provision.
11. The Council is concerned that the provision of one parking space per dwelling would be harmful to the living conditions for this development's occupiers. However, the Council has not explained precisely what harm the development's occupiers would experience in this regard. I consider that the provision of one parking space per dwelling, the limited on-street parking available on Godstone Road and the potential need to rely on the car park in Gun Pit Road would mean that the occupants of the development would be likely to be members of single car households. I therefore consider that the parking arrangements would adequately meet the needs of the development's occupiers.
12. As a counter to any concerns relating to the development's effects on its occupiers' living conditions, it has been submitted that the L shaped building could be converted into two dwellings utilising the permitted development rights (PD) for such conversions. However, the appellant stated at the Hearing that the L shaped building's conversion would not be straight forward. From what I saw of the L shaped building, I would concur with the appellant's assessment of the existing building's conversion potential. I therefore attach very limited weight to the utilisation of the PD rights as a possible fallback position.
13. For the reasons given above I conclude that the development would provide unacceptable living conditions for its occupiers because of the inadequacy of the outlook from dwelling A's bedrooms and the outdoor space provision for both dwellings. There would therefore be conflict with the eighth and ninth criterion of Policy DP7 of the Tandridge Local Plan Part 2 Detailed Policies 2014 to 2029 (the Local Plan). That is because the development would fail to provide its occupiers with a satisfactory living environment and appropriate facilities. I also consider that there would be conflict with the fourth core planning principle stated in paragraph 17 of the National Planning Policy Framework (the Framework) because the development would not secure a good standard of amenity (living conditions) for its occupants.

Living conditions for the occupiers of neighbouring properties

14. The north eastern and north western elevations of the L shaped building are on Nos 14/16's boundaries respectively with 2 Headland Way (No 2) and 24 Godstone Road (No 24). The flat roof section of the existing building is 3.2 metres in height, while its pitched roof section is 6.1 metres tall. Dwellings A and B by contrast would respectively have ridge heights of 6.2 and 6.5 metres³.
15. Both dwellings would be inset from the site's north eastern and north western boundaries by a little and the width of dwelling A would be less than the existing building. However, dwelling A's ridge height would be close to twice the height of the existing building's flat roof and I am of the opinion that dwelling A would have a much more imposing presence compared with the structure it would replace. I therefore consider that dwelling A, given the enclosing effect it would have on No 24's garden, would be visually intrusive and thus overbearing for the users of No 24's garden.
16. I consider that there would be sufficient separation between dwelling A and 7 Vicarage Close (No 7) for the former not to be overbearing for the occupiers of No 7. I also consider that dwelling B would not be overbearing for the occupiers of Nos 2, 7 and 24 because dwelling B's additional height would be modest when compared with the existing building's height.
17. While the existing use of the site could be intensified, given the limited extent of the external storage area, I consider it unlikely that any additional open storage would be comparable with dwelling A's height. I therefore consider that the possible intensification in the site's existing use does not weigh significantly in favour of the development. With respect to the consideration of overbearing effects, it is argued that regard should be paid to the relationship between Birch Lodge and 2, 3 and 4 Vicarage Close (Nos 2, 3 and 4), which are all recently constructed dwellings. However, I consider that the distances between and boundary enclosure for Birch Lodge and Nos 2, 3 and 4 mean that the consideration of overbearing effects for those dwellings are not comparable with dwelling A's relationship with No 24's garden.
18. The first floor rooms of dwellings A and B would variously have vertically hung windows and rooflights. However, when regard is paid to the height, size number of those first floor windows and their orientation and distance relative to the windows and gardens of all of the neighbouring properties, I consider that the development would not cause any actual or perceived loss of privacy for the neighbouring occupiers.
19. For the reasons given above I conclude that the development would unacceptably harm the living conditions of the occupiers of No 24 because of the overbearing effect there would be on that property's garden. There would therefore be conflict with Policy CSP18 of the Tandridge District Core Strategy of 2008 (the Core Strategy) and Policy DP7 of the Local Plan. That is because the development would be visually intrusive/overbearing, which would cause significant harm to the living conditions of the occupiers of a neighbouring property. There would also be conflict with the forth core planning principle stated in paragraph 17 of the Framework because the development would not secure a good standard of living conditions for neighbouring occupiers.

³ Dimensions taken from the appellant's appeal statement

Character and Appearance

20. The site is unusual for this part of Lingfield in that it has a backland siting and the layout of the dwellings would generally replicate that of the L shaped building. The development would be of a mews type, albeit of a much smaller scale than is typical for mews. Mews are uncharacteristic of Lingfield.
21. By replicating the L shaped building's layout dwellings A and B would have uncharacteristically little space about them and in character and appearance terms that would be a shortcoming of the development. However, the L shaped building possesses no architectural merit and the site has an untidy appearance given its use. The architecture of the dwellings would be in sympathy with the area and the redevelopment of the site would significantly improve its appearance.
22. I therefore conclude, on balance, that the comparatively compact nature of the development, when taken with the general improvement in the site's appearance, would mean that this scheme would not be harmful to the character and appearance of the area. As the development would not be harmful to the character and appearance of the area there would in that respect be no conflict with Policy CSP18 of the Core Strategy and Policy DP7 of the Local Plan.

Supply of commercial and industrial premises

23. Policy DP4 of the Local Plan seeks to retain commercial and industrial premises, unless it can be demonstrated that they are unsuitably located because of the inadequacy of their accesses for heavy goods vehicle use or their use is harmful to the living conditions of neighbouring residents or a commercial/industrial use is no longer viable.
24. The development would result in a commercial site being lost. The site has not been marketed for alternative occupation and there is no evidence of it being unviable for continued commercial and/or industrial occupation. However, this is a small site and its location and its access are not ideal for its continued commercial occupation, given the proximity of so many residential properties and the physical limitations of the access. The L shaped building is also not in a particularly good state of repair.
25. Had this site been marketed for alternative occupation I have reservations as to whether there would have been any significant interest from any prospective occupiers. The most likely alternative use may well be another storage activity, a use that would be unlikely to give rise to any significant additional employment in the area. Such a use would be unlikely to address the high level of out-commuting that occurs in the Council's area, as referred to in Policy DP4's supporting text.
26. I therefore conclude that the development would not adversely affect the supply of commercial or industrial premises in Tandridge and that there would be no unacceptable conflict with Policy DP4 of the Local Plan.

Other Matters

27. The development would make a modest contribution to the supply of housing and the dwellings would be in an accessible location. There would therefore be some social benefits arising from this scheme. There would also be

economic benefits in that there would be some local employment associated with the construction of the dwellings, with the works being undertaken by a local housebuilder. There would also be some environmental benefits with the scheme involving the reuse of previously developed land.

28. There is disagreement between the parties as to whether the Council can currently demonstrate the availability of a five year supply of deliverable housing sites (HLS), when regard is paid to paragraphs 47 and 49 of the Framework. The appellant contends that the HLS figure used by the Council should not be used because it relies on a requirement derived from the now substantially revoked South East Regional Plan. The appellant contends that regard should instead be paid to the full objectively assessed need more recently identified by the Council.
29. In the event of there being no HLS then the Supreme Court's judgement referred to above makes it clear that the fourth bullet point in paragraph 14 of the Framework would be engaged, with the balance being tilted in favour of the granting of permission, except where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. I have found that the development would be harmful to the living conditions of both its occupiers and those of a neighbouring property. Even if I were to conclude there is a shortfall in the HLS of the scale suggested by the appellant and that the relevant policies for the supply of housing should not be considered up-to-date, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the development's benefits.
30. Various applications determined by the Council or on appeal have been drawn to my attention. However, I have identified development specific harm and I therefore consider that decisions made in relation to other schemes do not have a direct bearing on the determination of this appeal.

Conclusions

31. While I have found that the development would not be harmful to the character and appearance of the area or the supply of commercial and industrial space in the Council's area, the development would be harmful to the living conditions for its occupiers and those of a neighbouring property. The harm I have identified gives rise to conflict with local and national policy and it could not be overcome by the imposition of reasonable planning conditions. I therefore conclude that this scheme would be an unsustainable form of development. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR

Appearances

FOR THE APPELLANT

Edward Pape	Appellant
Tim North MSC, BA (Hons), DMTP, MRTPI	Tim North and Associates Limited

FOR THE COUNCIL

Chris Hall BSc, MPhil, MRTPI	Planning Officer
Robin Evans BA (Hons), PGDIP Cert Licentiate MRPTI	Planning Officer

DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

1. The Council's third party notification letter for the Hearing's time, date and venue
2. The appellant's comments on the Supreme Court's judgement concerning the cases of Suffolk Coastal District Council v Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP and the Secretary of State for Communities and Local Government v Cheshire East Borough Council
3. The Council's comments on the abovementioned Supreme Court judgement