

Appeal Decision

Site visit made on 9 May 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 5 June 2017

Appeal Ref: APP/Y3615/W/17/3168963

Stadium Works, Oxenden Road, Tongham GU10 1AJ

- 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 & Mrs Jeffrey Lawton against the decision of Guildford Borough Council.
 - The application Ref 16/P/01451, dated 5 July 2016, was refused by notice dated 17 October 2016.
 - The development proposed is the demolition of existing building and erection of 9 one bedroom flats with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of future occupiers, with particular regard to outlook, privacy, and the provision of amenity space; and,
 - whether the proposal would provide adequate mitigation for the Thames Basin Heaths Special Protection Area.

Reasons

The character and appearance of the area

3. The development of a building to the rear of the site as well as to the front would break from the more usual arrangement of a flat block separated from the road by a block of parking, much like the block to one side of the site. However, the large plot coverage of the building presently on the site, and the warehouse a few metres away, establish a less conventional typological context, as does the inward facing housing on the other side of the site, at Oxenden Court.
 4. Moreover, the twin block approach, with one block close to the street, would provide greater frontage enclosure, animation, and definition to the street scene. It would also reflect more closely the traditional housing on the opposite side of the street than the single, regressive block arrangement which
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contributes less to the animation of the street. This is especially important given the distinctive character of the more historic housing set close to the footway, further along the same side of this street.

5. I understand the Council's concern that the rear block should appear subservient to the front block. A shorter form to the rear block would balance its wider mass when seen behind the street block. However, the two buildings would be separated by a substantial distance and the rear block would have a lower eaves than the front block, which because of its symmetry and compact form, would hold its own, architecturally, against the greater rear block.
6. The fenestration of the front wall of the rear block would depart from the usual rectangularity. However the size of the ground floor openings would not depart significantly from the solid: void ratios of the surrounding buildings, and given the design intention is to allude to stables, their curved heads and divided spans would add visual interest and help to distinguish the architecture of the two blocks.
7. In respect of the factors above which the Council has raised in their reason for refusal, I find that the scheme would improve the character and quality of the area rather than harm it. However, aside from some spaces which appear more left-over than design-driven, the buildings are almost devoid of any softness, greenness, or reference to the natural environment in their public and semi-public settings.
8. I have taken into account that the design suggests a stables set behind a large house where lawns and shrubs may be less characteristic. However, the landscape of this scheme would not measure up to the quality of its architectural setting and would not integrate the scheme into the surrounding area which is characterised by the inclusion of natural elements. It would not take the opportunity available for improving the character and quality of the area, contrary to paragraph 64 of the National Planning Policy Framework (the Framework).
9. I have considered whether a planning condition would make the scheme acceptable, however, the shortcoming identified in the balance of space between parking, building and landscape is more demanding than the scope of a condition might resolve.
10. For this reason, I conclude that the proposal would result in harm to the character of the area, which would be at odds with saved policies H4 and G5 of the Guildford Local Plan 2003 (LP). These seek, amongst other things, a high standard of landscape design, where new spaces have an attractive and identifiable character. It would also conflict with paragraph 58 of the Framework which says that development should respond to local character and with the Planning Practice Guidance¹ which advises that development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development.

The living conditions of future occupiers

11. I appreciate the Council's concern about the quality of the outlook from the rooms looking onto the rear parking area. However, given the height of the rear block, its pitched roof, and its distance from the bedroom windows of the

¹ Planning Practice Guidance, paragraph:007, ID 26-007-20140306

flats in the front block, I do not find the outlook from the bedrooms would be unacceptable. Similarly, the windows to the living spaces of the flats in the rear block would be large and not harmfully compromised by the proximity of the front block. The outlook of the bedrooms in the back of the rear block would be through large openings and to a wood only a few metres away, and far from unacceptable.

12. As regards privacy, the distance between the bedroom windows in the back wall of the front block and the windows in the front wall of the rear block would be only 11m. However, I take into account that the ground floor views between the buildings would be partially obscured by the rows of intervening parking beside the rear block. Also, reflecting the traditional appearance of the building, the bedroom windows would be relatively small, and as the appellant points out, might well be dressed with curtains or blinds. Moreover, the almost mews type of character to the development would suggest that the area between the two blocks would have a more intimate feel, in which context, shorter than commonly accepted privacy distances might be accepted. Nonetheless, the distance of 11m is short, and with no intervening trees or planting or structures of any kind to diminish the intervisibility, there would be a risk of overlooking into the bedrooms of the occupiers of the front block and a consequential loss of privacy.
13. In terms of amenity areas, the space around the rear block would be confined in the gap between the walls of the block and the surrounding site boundaries which would limit its utility as an amenity space. However, as the bedroom doors and windows of the ground floor flats would open directly onto this area, it is likely that the area would serve principally the ground floor flats. Given that the flats are one bedroom, the amount of amenity area would not be unacceptable. The maisonettes above would each have a balcony or a terrace area of reasonable size, which would provide sufficient private amenity space. I find there would be sufficient amenity space for the future occupants of the rear block.
14. However, the area beside the front block indicated for the shared amenity of the 10 occupants of that block, would be little larger than a car parking space. Its location between the flank of the block and the site boundary and between a parking area and a bin store would result in a confined area, lacking space and light, which would severely restrict its amenity to the future occupiers of the block.
15. I accept that common amenity areas may be used less intensively than private areas; however the quality of the space allocated to the occupiers of the front block would be inadequate. While there may be local open spaces nearby, this does not address the need for some amenity space within close reach of the dwellings. The appellant refers to Oxenden Court and Osgood Court as developments with little amenity space. However, as I have not been provided with the details of those developments, nor the circumstances which led to their approval, it is unclear if these schemes are comparable. My impression of these Courts and development in the surrounding area is that there is generally a good degree of amenity space for residents. I find that there would be insufficient amenity space of sufficient quality for the future occupants of the front block.

16. I conclude on this issue that the lack of amenity space and lack of privacy for the future occupiers of the front block would result in unacceptable harm to their living conditions. This would conflict with LP policies H4 and G1(3) which require development to have no unacceptable effect on the amenities enjoyed by occupants in terms including privacy and with one of the core planning principles of the Framework which seeks a good standard of amenity for future occupants of buildings.

The Thames Basin Heaths Special Protection Area

17. The appeal site lies within the 400m to 5km 'buffer' zone of the Thames Basin Heaths Special Protection Area (TBHSPA). As the proposal would involve the provision of nine new dwellings, an obligation to secure appropriate mitigation is required to make the development acceptable in planning terms in accordance with LP Policy NE1 and saved Policy NRM6 of the South East Plan 2009. This states that new development affecting the TBHSPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects on its ecological integrity.
18. Further to the above, the Council's *Thames Basin Heaths Special Protection Area Avoidance Strategy 2009-2016* (Jan 2015) requires a financial contribution from all new housing development towards the provision of suitable alternative natural green space (SANG) and its strategic access, management, and monitoring (SAMM).
19. The appellants have indicated their willingness to make such a contribution and have submitted a unilateral undertaking during the course of the appeal to address this matter. While I note the Council disputes its effectiveness and its legal soundness, as the proposal is unacceptable for other reasons, it is not necessary for me to assess the undertaking against the criteria of Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010.

Other Matters

20. I have taken into account the views of Ash Parish Council and surrounding occupiers. However, the Council has already accepted the principle of the change of use of the site for housing, and there is no evidence for me to disagree with their conclusion. The development would not significantly increase the traffic in the area. There is also no evidence that it would prejudice highway safety. In this respect, I note that the highway authority considered the on-plot parking as acceptable and did not object to the application.
21. There would be a marginal degree of indirect overlooking from the upper floors of the proposal towards the houses in Oxenden Court. However, given the oblique siting of the proposal to the boundary, the distance between the buildings, and that a degree of mutual overlooking is commonly accepted in the built-up area, this is not considered to be a materially harmful loss of privacy.
22. The Council accepts that it is unable to provide a 5 year supply of housing sites. However, while there may be a shortfall in housing supply, which means that policies for the supply of housing are not up-to-date, the development plan policies referred to by the Council relate to the SPA and to the quality of development rather than strictly to the supply of housing. I therefore accord significant weight to these policies, which I consider to be up-to-date.

23. In any event, the proposal does not adequately address the environmental and social roles of sustainable development as set out in paragraph 7 of the Framework, and does not therefore constitute sustainable development. Even if the policies referred to above were considered to relate to housing supply, which I consider they do not, I find that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the development.

Conclusion

24. In summary, whilst the development would provide a substantial benefit of 9 dwellings to local housing supply in accordance with paragraph 47 of the Framework, this is outweighed by the harm to the character and appearance of the area and to the living conditions of future occupiers and the conflict with the policies of the development plan. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Patrick Whelan

INSPECTOR