

Appeal Decision

Site visit made on 9 May 2017

by David Murray BA (Hons) DMS MRTPI

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

Decision date: 12 June 2017

Appeal Ref: APP/L3625/W/16/3167710

Winscombe Nursing Home, Furze Hill, Kingswood, Surrey, KT20 6EP.

- 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 P Weldin against the decision of Reigate & Banstead Borough Council.
 - The application Ref. 15/02328/F, dated 15 October 2015, was refused by notice dated 1 September 2016.
 - The development proposed is the demolition of the existing building and erection of two 2-storey buildings (with roofspaces) for 14 x 2 bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Amended plans were submitted to the Council during the consideration of the application. It is these plans with a revised date of 9 August 2016 that I have based my decision on.
3. A Unilateral Undertaking, dated 8 July 2016 and signed by the appellant developer and made under section 106 of the Act, was submitted to the Council. In general terms this covenants the developer to pay to the Council a specified affordable housing contribution should planning permission be granted for the development proposed and prior to the commencement of the development on site. I have had regard to the Undertaking subject to my comments in paragraphs 21-23 below.

Main Issues

4. The main issues are the:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect on the living conditions of the occupiers of neighbouring properties;
 - and whether the proposal makes appropriate provision for affordable housing.

Reasons

Background

5. The appeal site is located on the corner of Furze Hill and Monica's Road and comprises a former nursing home together with an access and areas of parking. In plan, the existing building has the form of a cross with a two storey central element and the 'wings' are mostly high single storey roofs. I noted at my visit that the building and the site are vacant and the building is becoming dilapidated and hedges and landscaping within the site are overgrown. Around the site is a mixture of forms of residential development with an access to large scale commercial development opposite the junction of Furze Hill and Monica's Road. The site lies in a suburban area of Kingswood a recognised settlement which has a range of facilities and public transport links.
6. It is proposed to demolish the existing building and erect 14 flats in two buildings principally of a two storey form, although providing three floors of accommodation; the upper floor would be formed in the roof space with a small dormer window in the front elevation, roof lights and two dormer windows in the roof slope at the side elevations; and inverted dormers in the rear roof slope. Because of the nature of the fenestration on the rear elevation of the proposed buildings, these would have more of a three storey form.

Policy context

7. The development plan includes the Reigate and Banstead Core Strategy (2014) (CS) and saved policies in the Reigate and Banstead Local Plan (2005) (LP). As the 2005 plan predates the National Planning Policy Framework (the Framework) the relevant policies may be given weight subject to the degree of consistency with the Framework.

Effect on character and appearance

8. The appeal site and the surrounding area do not have any special nationally recognised designation. The Council refers to CS Policy CS4 as being applicable to the site but this refers to 'Valued townscapes and the historic environment' but there is no evidence submitted that the site is of historic importance. At best the area is a valued townscape. Therefore it appears to me that Part 2 of this policy applies. This requires new development to respect, maintain and protect the character of the valued townscape as well as meet the four sub-clauses. Saved policies Ho9 and Ho13 of the Local Plan put forward similar criteria on siting and design to maintain the character and amenity of an area for acceptable forms of new development.
9. The Council's Supplementary Planning Document (SPD) - Local Distinctiveness Design Guide (2004) generally refers to Kingswood as a Residential Area of Special Character (RASC) and the Guide goes on to identify factors that contribute to local distinctiveness. Although the Guide predates the Framework generally it is not unnecessarily prescriptive and as it aligns with paragraph 59 of the Framework it should be given moderate weight.
10. At my site visit I noted the variety in the form of existing development in the vicinity of the site. This ranged from three storey flatted development on the opposite corner of the junction with Monica's Road, to neighbouring detached houses which were mostly of two storey form although many had high roofs with accommodation in the roof space, lit by dormer windows. There was also

a verdant character in the area formed by the mature trees that exist locally and the degree of hedges along road frontages.

11. The appeal scheme would have a different form to the building which exists on the site in that the two buildings would be grouped towards the centre of the site. Further from the public realm of the road frontage the buildings would have a 2.5 storey appearance which reasonably reflects general building form in the locality. In townscape terms, there would be a sympathetic visual relationship with the immediately adjacent properties 'Woodcote' and 'Littlethorpe' as demonstrated in the street scene elevations on drawing 15-03(PR)07. Although two building blocks are proposed, as opposed to detached houses, the massing of the two buildings is broken up by the recessing of the entranceway on the front elevation and the design is based on the scale and appearance of such houses, although joined together. Further, I find that the palette of materials proposed with the use of both rendered and cosmetic timber inlaid gables, brickwork and tile hanging on extended bay windows uses elements that are widely prevalent in the local street scene. The Council refers to a number of concerns about the detailed aspects of the design of the two buildings but I do not consider that these would be materially harmful to the overall form of the buildings and to some extent reflect the variation in architectural form that exists in the local buildings around the site as identified in the Design Guide.
12. The rear of the buildings away from the public realm would have a greater horizontal emphasis and more extensive fenestration but this elevation would look towards the rear garden of the site and views of the development from neighbouring houses would be partly curtailed by the existing trees and landscaping. In the context of the general setting of these neighbouring properties in a suburban area as I observed at my site visit, I do not consider that the design and massing of the two buildings put forward would be materially harmful to this character in visual terms away from the public realm.
13. The Council and local residents express concern about the location of the car parking areas at the front of the site but this appears to be little different in design terms to the present layout of the site, albeit that the boundary landscaping is unmanaged and overgrown, which screens the impact to the street. I am satisfied that the design put forward includes a comprehensive landscaping scheme and the enclosure of the parking spaces to ensure that these will not be an unattractive feature in the public realm and prominent on the corner.
14. Bearing in mind the guidance in the Framework, particularly in paragraph 60, that planning decisions should not attempt to impose architectural styles or tastes and should not stifle innovation or initiative, I am satisfied that the details of the scheme put forward do properly take into account the architectural factors that contribute to this area's distinctiveness, and the RASC without mimicking existing development in the area. The proposed scheme would achieve this much better than the existing development, notwithstanding its dilapidation, and the proposal amounts to a visual enhancement of the area.
15. Overall I find that the proposal accords with the requirements of Part 2 (b) and (c) of policy CS4 in that it is a high quality design which takes its direction from the existing character of the area and in a positive way makes the best use of the site and its physical characteristics whilst minimising the impact on the

public realm and surrounding properties. Further, there is no substantive evidence before me that parts (a) and (d) are not met. The proposal also meets the general design requirements of Ho9 and Ho13.

Effect on the occupiers of neighbouring properties

16. In assessing this issue, at my visit I noted the position and form of the existing building on the site and its relationships with neighbouring properties particularly 'Woodcote' to the west and 'Littlethorpe' to the north-east of the site and considered the differences that would arise with the proposed development.
17. In terms of the relationship with Littlethorpe, I have taken account of the existing trees on the site but I have doubts about their retention because of their proximity to the proposed building works. The site plan shows the position of the footprint of the existing and proposed buildings. While the existing building is about the same distance to the boundary, it is single storey at this point and the roof pitch of the building is shallow. This is compared with the mostly two storey form of the side elevation of building 1 where there would be a number of windows at second floor including those in the cat-slide roof. Although part of the bulk and scale of the building proposed would be screened by the garage building (not shown on the site plan) within the garden of Littlethorpe, I agree with the Council that the height and length of the building bulk and its proximity to the party boundary would result in it having a dominant and overbearing effect on this existing property. Further, there would be a material degree of overlooking from windows at first floor level towards the house and its garden which would result in a loss of privacy for the occupiers of this property.
18. Turning now to the relationship with Woodcote, here the footprint of the proposed building 2 would be sited closer to the street than the wing of the existing structure and there would be more space to the boundary at the closest point. Further the bulk of building would be staggered and in my view there is more likelihood of the intervening tree and landscaping being retained. On balance, I am satisfied that the building bulk and fenestration of the scheme proposed would not have a harmful effect on the living conditions of the occupiers of this property.
19. The Council also refers to the effect of the second floor balconies proposed on both buildings and their effect on overlooking both direct and perceived. While the inverted dormers with balconies are not imposing in design terms, and some limited fenestration at second floor level is characteristic of the area, I have concerns about the size and nature of the terraces proposed. They would be of a scale that the occupiers of the flats would be able to congregate and socialise there and the users would be likely to have unrestricted views sideways towards the gardens of neighbouring houses at a relatively close distance and not mainly screened by vegetation. I find that these terrace features would be likely to result in the substantial overlooking of other neighbouring properties and be harmful to the living conditions of the occupiers.
20. Overall on this issue I conclude that the proposed scale and siting of building 1 would have a harmful effect on the living conditions of the existing property Littlethorpe and the position and extent of the second floor rear facing terrace/balconies on both buildings would cause overlooking of this and other

neighbouring properties and cause similar harm to living conditions. Such harm means that the proposal does not satisfy the requirements of saved Local Plan policies Ho9 and Ho13. The relevant parts of these policies seek to ensure that development does not seriously affect the amenities of adjoining properties. This aim is broadly consistent with the Framework which has a core principle of ensuring a good standard of amenity for existing occupiers of buildings. The policies should therefore be afforded significant weight.

Provision for affordable housing

21. Core Strategy Policy CS15 indicates that for a development of the scale envisaged a financial contribution broadly equivalent to the provision of 20% affordable housing will be sought although the policy recognises that the Council will negotiate on this provision taking into account the mix of the development and the overall viability of the development proposed.
22. In this case the appellant submitted the formal Undertaking, as referred to in paragraph 3 above, and this offered a contribution of £98,224 for affordable housing. This appears to have been acceptable to the Council's planning officer as the recommendation made to the Planning Committee on the 31 August 2016 was for the grant of planning permission subject to the completion of the formal Agreement. However, the Council now say in its representations on the appeal that the acceptance to this level of contribution was a mistake and advises that the contribution should be £192,200. The appellant objects to this apparent change of tack and has not offered any increased contribution.
23. It is clear to me that for the scale of development proposed, there is a policy requirement in the development plan to secure the reasonable provision of affordable housing. Further, the degree of contribution is dependent on the details of the case; the nature of the units; and the effect on the viability of the scheme. Whilst I note the difference between the parties on the level of contribution that is appropriate, there is little evidence before me, particularly on the effect on the scheme's viability, to be able to reach a clear conclusion on whether the amount specified in the Undertaking is acceptable and whether the contribution otherwise meets the tests set out in paragraph 204 of the Framework. As the proposal stands, I cannot conclude that it meets the requirements of CS Policy CS15.

Other matters

24. Local residents also raise other objections to the development including the increase in traffic stemming from the site which they say will contribute to congestion, on-street parking and the inconvenience of road and footpath users. However, I note that the highway authority has considered these aspects and does not consider that the proposal will have a material impact on road safety and the operation of the highway. It also appears to me that there is reasonable parking provision proposed on site for the scale and nature of the development. At my site visit I observed that there would also be reasonable visibility for the access proposed subject to the cutting back of the existing overgrown roadside vegetation. Given these factors and the scale of the existing, although vacant development on site, there is little substantiated evidence before me to demonstrate that the proposal would be materially harmful to highway safety or the free flow of traffic in the vicinity of the site.

Planning Balance

25. The proposal needs to be considered in the context that the government encourages sustainable development and seeks to boost significantly the supply of housing. Generally the site lies within a sustainable location in a settlement which has a range of means of transport and that in principle CS Policy CS1 supports the redevelopment of the site.
26. Bringing my conclusions on the main issues together I have found that while the suburban area around and including the site is recognised to be a valued townscape and a RASC, the overall design and form of the proposed buildings reasonably takes into account the architectural factors that contribute to the area's character and distinctiveness and meets the relevant requirements of Policies CS4, Ho9 and Ho13. I am satisfied that in townscape terms the proposed buildings would be a visual enhancement of what exists at the moment.
27. However, I have concerns about the siting and scale of building 1 and the dominating effect it would have on the living conditions of the occupiers of the neighbouring house Littlethorpe to the south-west. This together with the overlooking effect from the terrace/balconies proposed on the rear of the building at second floor level, would result in a loss of privacy to the occupiers of immediately adjacent properties. These amount to significant but localised flaws in the proposal which conflict with the parts of Policies CS4 (c), Ho9 (v) and Ho13 which deal with the effects on neighbours.
28. As much of the development is acceptable, I have considered whether these aspects concerning the effect of the siting and height of the building 1 to the party boundary and the second floor terraces are capable of being overcome by a condition on a permission requiring the submission of amended plans to address these particular aspects. However, the resolution of these concerns is not straight forward and there may be a knock-on effect to other aspects of the proposal. I therefore do not consider that such a condition would meet the tests of being precise and reasonable nor does it give sufficient certainty of resolution. Further, the issue of the provision for affordable housing has not been resolved. These factors therefore add up to significant adverse effects.
29. The adverse effects have to be balanced with the benefits of the proposal. The proposal would have some beneficial social, economic and environmental effects by adding to the supplying of housing, facilitating the commercial redevelopment of the site and bringing about an environmental enhancement. However, the benefits are not of such weight that justify the particular local harm that I have identified would occur. I therefore find that the proposal does not constitute sustainable development when the Framework is read as a whole.
30. Overall, I find that the conflict with the development plan is not outweighed by other considerations.

Conclusions

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

David Murray

INSPECTOR