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## Appeal Decision

Site visit made on 9 October 2017

**by J Ayres BA Hons, Solicitor**

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

**Decision date: 2<sup>nd</sup> November 2017**

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**Appeal Ref: APP/C3620/W/17/3179081**

**Land to rear of 31-37 Lower Road, Fetcham KT22 9EL**

- 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 Tunsgate Homes against the decision of Mole Valley District Council.
  - The application Ref MO/2017/0428/PLA, dated 27 February 2017, was refused by notice dated 9 June 2017.
  - The development proposed is the erection of 4no. detached dwellings with associated garages and access road.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 4no. detached dwellings with associated garages and access road at Land to rear of 31-37 Lower Road, Fetcham KT22 9EL in accordance with the terms of the application, Ref MO/2017/0428/PLA, dated 27 February 2017, subject to the fifteen conditions in the attached schedule.

### Preliminary Matter

2. At the time of the application the Council assessed the site as being within the Residential Area of Special Character (RASC). The Council has subsequently confirmed that the appeal site does not lie within the RASC.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

### Reasons

4. The area is residential in nature, and I agree with the general description of the Council's 2002 Policy Statement that the area has a sylvan feel to it. To the rear of the site is Cedar Drive, along with Badingham Drive and Sycamore Close being in close proximity. This appears as a small ribbon of development, winding its way along through the vernacular. These properties are generally slightly closer together, occupying more modest plots, with Cedar Drive on a slightly higher position than Lower Road.
5. On the day of my site visit I travelled through the RASC and around the surrounding area to appreciate the built form and its effect on the character of the area. Although Lower Road demonstrates much of the sylvan character

that is found in the RASC, there are also a number of dwellings in the area which occupy smaller plots but maintain the sylvan character through the use of mature planting and general space.

6. It is my view that the character of the area has developed organically due to the construction of new homes, and is now slightly denser than it would have been historically. A crucial thread of the character of the area continues to be the presence of mature planting, trees, and vegetation. This provides a significant amount of screening for the properties and enhances the semi-rural feel established through the space around the properties.
7. The proposal would retain a large amount of the boundary vegetation, supplemented as appropriate, along with a number of mature trees, the protection of which would be secured by condition. The scheme has been amended to provide for the dwellings to be situated within the plots allowing ample space around the built form. In my view, this retention of vegetation, with the slight amendment to the location of the dwellings, would retain the spacious and open character which enhances the quality of the area in its entirety. Due to the importance of the open nature of the site I consider it appropriate to restrict permitted development rights with respect to additional buildings on the site as, in my view, additional structures on the site to those permitted would significantly erode the openness retained by the proposal in its current form.
8. I have had regard to the Council's planning decisions and Appeal Decisions which have been referenced by the appellant, the Council, and interested parties. I consider the developments at 13 – 15 Lower Road and 77 – 79 Lower Road to be relevant to this appeal in demonstrating how the character and appearance of the area in this entirety has evolved over time to allow some tandem forms of development where appropriate. On the day of my site visit, I looked at the development at The Croft. In my view this development is seen differently as it is more akin to infill development, utilising space that was previously surrounding by residential properties. Each application must be considered on its own merits.
9. Having considered the evidence, and on the basis of my site visit, I find the proposal before me to be materially different to the 2008<sup>1</sup> and 2010<sup>2</sup> schemes with regards to its effect on the character of the area. I accept that both Inspectors considered the long open gardens to carry significant weight in defining the character of the area. However, the character has changed to include some instances of tandem development. Furthermore, I consider that the character of the area should be assessed as a whole, and I consider the development to the rear of the site to be relevant in my determination.
10. Moreover, since the previous appeals were considered the Council has carried out a Built Up Area Character Appraisal (BUACA), which included the area of Fetcham. The BUACA refers to key features including mature gardens, well established hedges and generous space between and around gardens.
11. Access to the proposal would be provided along the boundary between Nos 33 and 35 Lower Road. The proposed dwellings would be sited into comfortable positions within the plots, retaining a significant proportion of mature

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<sup>1</sup> APP/C3620/A/07/2059088

<sup>2</sup> APP/C3620/A/10/2125986

vegetation. Very limited views of the dwellings would be possible from Lower Road, due to the location and the length of the access way and the situation of the proposed dwellings. The single storey nature of the dwellings would respond to the bungalow style properties in the area. As such the proposal would respect and harmonise with the character of the area, responding to the more recent developments in the area whilst retaining key features identified in the BUACA.

12. Accordingly I find that the proposal would comply with Policy ENV22 of the Mole Valley Local Plan 2000 (MVLP) with regards to its scale and form, effect on local amenity, and response to the local character of the area. The proposal would comply with Policy ENV23 of the MVLP with regards to its scale within the site and providing adequate space around the individual buildings. The proposal would not appear cramped, and would therefore comply with Policy ENV24 of the MVLP.

### **Other Matters**

13. A number of additional concerns have been brought to my attention including the effect of the proposal on local infrastructure with specific regard to access to GPs and local parking. It has been recognised as part of the Mole Valley Local Development Framework Core Strategy (2009) that the area is a sustainable location for residential development, and therefore I do not consider these concerns to justify the dismissal of the appeal.
14. Concerns have also been raised in relation to the access to the site and its suitability for fire engines. I am satisfied having considered the evidence before me that the access can be safely used and would not pose a risk to highway safety. Although frustrating for local residents, the issue of land banking by developers is not a matter that I have any jurisdiction over as part of this appeal.

### **Conditions**

15. I have considered the imposition of conditions in accordance with advice in the Framework and Planning Practice Guidance. I have amended some of them for clarity.
16. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans in the interests of certainty.
17. Conditions relating to ground levels and to secure appropriate finishing materials and landscaping are necessary in the interests of protecting the character and appearance of the area and surrounding living conditions.
18. Conditions requiring appropriate parking facilities and access are necessary to ensure highway safety. I have included a condition relating to drainage to ensure that adequate drainage is provided in the interest of the amenity of occupiers.
19. I have imposed conditions relating to carbon emissions and surface water drainage in the interests of optimising renewable energy and ensuring that the development is sustainable.

20. I have had regard to the Council's suggested conditions restricting permitted development rights. The PPG advises that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. On the evidence before me I consider that such conditions would meet this test of necessity with regards to protecting the character and appearance of the area and protecting the amenities of neighbouring residents.
21. Conditions 2,3,4,5,6 and 7 are pre-commencement conditions which are justified in this case as they cover matters that are essential to be agreed before the development starts.
22. On the basis of the limited evidence before me in respect of archaeological issues I consider that conditions relating to a programme of archaeological work would meet the tests set out in the PPG.

### **Conclusion**

23. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

*J Ayres*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Before any above ground works commence, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) Before any above ground works commence, details of the hard surfacing to be used within the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall indicate either porous materials or the provision of a direct run-off from the hard surface to a permeable or porous area. All hard surfacing shall be carried out in accordance with the approved details, completed prior to the first occupation of the development hereby permitted and thereafter, permanently retained as such.
- 4) Prior to any above ground works commencing, details of all external joinery shall be submitted to and approved in writing by the Local Planning Authority including materials, method of opening and large scale drawings showing sections through mullions, transoms and glazing bars. Windows and door openings should have a reveal to be agreed. The development shall thereafter be implemented in accordance with the approved details.
- 5) No development shall take place until details of the existing ground levels of the site, the proposed finished levels of the ground, the ground floor slab level of each building, and the finished levels of any access road and driveway showing their relationship with the existing levels of the immediately adjoining land and buildings, have been submitted to and

- approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
- 6) Prior to the commencement of the development hereby permitted, surface water drainage details shall be submitted for the approval in writing by the Local Planning Authority. Such details shall include an assessment of the potential for the disposal of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework. The assessment shall provide information of the design storm period and intensity (typically a 1 in 100 year storm of 30 minutes duration with an allowance for climate change), the method employed to delay and control the surface water discharged from the site and the means to prevent pollution of the receiving groundwater and/or surface water. Where applicable, the details shall include infiltration tests, calculations and controlled discharge rates. If the development is to discharge water into the ground in any form, then a full BRE Digest 365 infiltration test (or falling head test for deep bore soakaways) will have to be submitted to the Local Planning Authority prior to commencement of any works on site. The suitability of infiltration methods should be verified (i.e. possible contaminated ground). The approved drainage scheme shall be implemented prior to the first occupation of the development.
  - 7) Prior to commencement of development, details to reduce the carbon emissions of the predicted energy use of the development hereby permitted by at least 10% through the on-site installation and implementation of decentralised and renewable or low-carbon energy sources shall be submitted and approved by the Local Planning Authority and be implemented prior to the first occupation of the dwellings.
  - 8) Before any above groundworks take place details of a landscaping scheme shall be submitted to and approved by the Local Planning Authority including planting of trees, shrubs, herbaceous plants and areas to be grassed. The landscaping shall be carried out in the first planting season after commencement of the development unless agreed otherwise in writing by the Local Planning Authority, and shall be maintained for a period of 5 years. Such maintenance shall include the replacement of any trees and shrubs that die.
  - 9) No occupation of the development hereby permitted shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected/retained. The boundary treatment shall be completed prior to the first occupation of the development, shall be carried out in accordance with the approved details and thereafter permanently retained as such.
  - 10) The development hereby approved shall not be first occupied unless and until the proposed vehicular access to Lower Road has been constructed in accordance with the approved plans.
  - 11) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking

and turning areas shall be retained and maintained for their designated purposes.

- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, dormer windows, glazed openings, or roof lights other than those expressly authorised by this permission shall be constructed.
  - 13) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions within Schedule 2, Part 1, Classes A, B, or C to any dwelling hereby permitted shall be erected.
  - 14) Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no building or enclosure, swimming or other pool, within Schedule 2, Part 1 Class E, shall be carried out on the land the subject of this planning permission.
  - 15) The development hereby permitted shall be carried out in accordance with the following approved plans:
    - P16-02-100A
    - P16-02-101B
    - P16-02-103B
    - P16-02-110B
    - P16-02-120B
    - P16-02-121B
    - P16-02-122A
    - P16-02-130C
    - P16-02-210B
    - P16-02-220B
    - P16-02-221B
    - P16-02-310A
    - P16-02-320A
    - P16-02-321A
    - P16-02-330A
    - P16-02-410B
    - P16-02-420B
    - P16-02-421B
- Tree Protection Plan (16 1295 TPP 001)

**END OF SCHEDULE**