
Appeal Decision

Site visit made on 13 November 2017

by Nicola Davies BA DipTP MRTPI

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

Decision date: 29th November 2017

Appeal Ref: APP/C3620/W/17/3181196

Westbourne House, 13 Horsham Road, Dorking RH4 2JL

- 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 Proseed Property Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2017/0629/PLA, dated 6 April 2017, was refused by notice dated 7 July 2017.
 - The development proposed is 'demolition of existing garage and erection of 1 No. detached dwelling with associated parking and landscaping on land at rear. Removal of front extension and side steps to existing house'.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and erection of 1 No. detached dwelling with associated parking and landscaping on land at rear and removal of front extension and side steps to existing house at Westbourne House, 13 Horsham Road, Dorking RH4 2JL in accordance with the terms of the application, Ref MO/2017/0629/PLA, dated 6 April 2017, subject to the conditions set out in the Schedule to this decision.

Application for costs

2. An application for costs was made by Mr Richard Nordgreen of Proseed Property Ltd against of Mole Valley District Council. That application is the subject of a separate Decision.

Main Issues

3. The main issues raised in respect of the appeal are the effect of the proposed development on: -
 - (a) The character and appearance of the area; and
 - (b) The living conditions of adjoining occupiers of 14 Horsham Road with particular regard to privacy and dominance.

Reasons

Character and appearance

4. Development to the rear of properties on Horsham Road, at a higher ground level, is characteristic of the area.

5. The proposed dwelling, although positioned marginally forward of the building line of the existing residential terrace to the south of the appeal site, would have a similar eaves level to that of the existing terrace and its roof would be slightly lower. The wider ground floor of the dwelling would be recessed into the sloping contours of the land. The first and second storeys, being narrower in width, would have a greater separation at garden level to the north and south boundaries of the site than that of the recessed ground floor.
6. Whilst the proposed dwelling would be positioned close to both the western boundary and, in part, the eastern boundary of the site, there is space around the building, particularly to its north and south sides. I also note that there would be additional space to the eastern side of the plot when the existing building in the rear garden is removed. Despite the proposed dwelling being positioned close to the existing eastern boundary of the site where the development would abut the rear boundaries of 14 and 15 Horsham Road, I do not consider it would appear unduly cramped. Furthermore, I do not consider it would be out of keeping or disproportionately dominant in size and scale in the context of other developments in this area.
7. Overall, I conclude that the proposed development would not harm the character and appearance of the area. For the reasons given, the proposed development would not materially conflict with Policy CS14 of the Mole Valley Core Strategy and Policies ENV22, ENV23 and ENV24 of the Mole Valley Local Plan that seek, amongst other matters, all new development to respect and enhance the character of the area and not to have a cramped appearance.

Living conditions of adjoining occupiers

8. The proposed dwelling would be positioned close to the rear boundary of 14 Horsham Road and at a significantly higher land level to that property and its rear garden. This proposed scheme would see the front facing windows at first and second storey in the eastern elevation being either entirely fitted with obscure glazing or obscure glazed up to 1.7m when measured from internal floor level. However, the Council is concerned that there would be a loss of privacy to the occupiers of 14 Horsham Road as the upper floor windows would be openable.
9. The appellant highlights that the details pertaining to the proposal indicate that the upper floor windows in the east elevation would be fixed, that is, non openable. The appellant has suggested that requiring the windows to be non opening and fitted with obscure glazing could be controlled by condition.
10. The matter of non opening windows is not specifically referred to in the officer's report to the planning committee. Nonetheless, I consider that a condition could be imposed that would ensure that the windows in the eastern elevation are obscure glazed (either in their entirety or up to 1.7m) and fixed shut. This would prevent harmful loss of privacy occurring to the occupiers' of 14 Horsham Road.
11. The Council is also concerned, in its reason for refusal, about an overbearing impact upon the occupiers of 14 Horsham Road, though this matter has not been raised as a concern within the officer's report to the planning committee. The proposed development would be recessed at ground floor into the sloping contours of the land and there would be sufficient separation between the upper storeys and the boundaries with adjoining properties. Based upon the

evidence before me, I consider that the proposed development would not excessively dominate the living environment of the existing occupiers of 14 Horsham Road, or significantly enclose the open aspect of gardens of the other adjoining properties, including those at Harrowgate Gardens.

12. Overall, I conclude that the proposed development would not harm the living conditions of adjoining occupiers at 14 Horsham Road having particular regard to dominance and privacy. For the reasons given, the proposed development would not materially conflict with Policy ENV22 of the Mole Valley Local Plan that seeks, amongst other matters, to ensure the amenities of the occupiers of neighbouring properties are not prejudiced.

Other Matters

13. Notwithstanding the Council's specific concerns above with relation to the proposal other local concern has been raised with regard to overlooking and loss of privacy. I consider that obscure glazing the windows in the eastern elevation and ensuring they are fixed shut would prevent loss of privacy to 12 and 15 Horsham Road and residents at Harrowgate Gardens from taking place.
14. The dwelling of New Clan House located on Harrow Road West is some distance from the appeal site but its rear garden abuts the site. Windows serving the stairwell and living room would provide outlook toward the garden of this neighbouring property. However these windows could be obscure glazed and this would prevent overlooking from the proposed dwelling toward this property whilst allowing light to the internal areas of the proposed dwelling. Other windows within the proposed development would ensure outlook for the first floor living room.
15. The dwelling of Westenings is also located on Harrow Road West and its rear garden abuts the northern side of the appeal site. There is a tree just within the boundary of that property and its canopy would reduce, to some extent, observation from the proposed dwelling to the long rear garden of that adjoining property. I consider that the relationship of the proposed development would be satisfactory.
16. I note that general local concern has also been raised to potential loss of light. However due to the orientation and relationship of the proposed dwelling to adjoining properties and their gardens, overshadowing of neighbouring properties would not be significant in my judgement. In addition, concern has been raised to noise from vehicular traffic and the use of the garden by occupiers, including an external stairwell access to the garden. However, I do not consider the vehicular movements and outdoor activity generated by the occupiers of one dwelling would be significant taking into account such activity would take place by use of the existing access and garden.
17. Local concern is raised to the reconfiguration of internal accommodation to create a four or five bedroom dwelling instead of the three bedrooms as illustrated on the plans before me. In the event that other rooms, such as studies, may be used as bedrooms, on the evidence before me I do not consider there would be significant harm resulting from a larger home in this location. Furthermore, whilst the land is currently garden associated with 13 Horsham Road, I have not been directed to any specific development plan policies that would resist development of such land.

18. Concern is also raised to lack of outdoor space for future occupiers but I consider there would be satisfactory space provided as part of the proposed development. Opinions have been expressed to the visual appearance of boundary walls relating to the development. However, in the context of other walls and fences in the area any new walls would not, in my opinion, appear out of keeping.
19. In addition, there is concern in relation to parking provision and highway safety at the access. Parking would be provided for both 13 Horsham Road and the new dwelling and the Highway Authority is satisfied that the visibility at the access is acceptable. I am therefore not persuaded that highway safety would be compromised or unacceptable parking problems would occur.
20. In reaching my decision, I have also taken into account potential damage to adjoining properties, security in the area, land/foundation stability, potential light pollution, trees on adjoining land, ecology at the site and covenants relating to land. There is no substantive evidence before me that would indicate damage to trees or other properties would occur or that ecology would be harmed or that problems relating to security, light pollution or land/foundation stability would take place. Land covenants fall beyond the scope of planning legislation, as does any potential loss of scenic views of the wider area. In addition, whilst some concern has been raised to lifetime homes standards the appellants checklist that supports their appeal indicates the dwelling would be compliant.
21. I note that other applications for development of the site have been previously submitted to the Council and have been subject to planning appeal. I have nonetheless considered this proposal on its own merits.
22. None of these matters alter my conclusion that the appeal should be allowed.

Conditions

23. I have considered what planning conditions would be appropriate in light of paragraph 206 of the National Planning Policy Framework and the advice in the Planning Policy Guidance. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
24. A condition relating to materials is appropriate in the interests of the character and appearance of the area. A condition restricting the upper floor windows in the eastern elevation to be obscure glazed and non opening is required in the interests of the living conditions of adjoining occupiers. For the same reason a condition requiring the upper floor windows in the western elevation to be obscure glazed is necessary. A condition retaining existing trees is necessary in the interests of protecting the existing character and appearance of the area. Conditions relating to parking provision, turning, access and visibility splays are necessary to prevent inconvenience to road users and to ensure highway safety.
25. A condition relating to a surface water drainage system is necessary to ensure that satisfactory drainage is put in place to serve the development and to protect the living conditions of adjoining occupiers. This condition is required to be submitted and agreed by the local planning authority prior to the commencement of development as it is fundamental to the acceptability of the

proposal and therefore is necessary to be agreed before development takes place.

26. The Council has suggested a condition restricting additional windows in the elevations. I consider such a condition necessary in the interests of the privacy of adjoining occupiers.
27. The Council considers that the removal of Class A, B and C of Schedule 2, Part 1 of the Town and Country (General Permitted Development) Order 2015 permitted development rights would be appropriate. It is not entirely clear what harm might occur to the living conditions of adjoining occupiers or to the character and appearance of the area if such permitted development rights were implemented at the development. I refer to the advice in the Planning Practice Guidance which states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not consider there to be exceptional circumstances here.

Conclusion

28. Having regard to the above and all matters raised the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE

CONDITONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed 1423-4 001, 011, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209 and 220.
- 3) Prior to the commencement of any ground works details of the materials to be used in the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the dwelling hereby permitted the first and second floor windows in the eastern elevation shall be permanently fitted with obscure glass either in their entirety or up to 1.7m above the floor of the room which the window serves and the windows shall be non opening. These windows shall thereafter be maintained as such.
- 5) Prior to the first occupation of the dwelling hereby permitted the first and second floor windows in the western elevation shall be permanently fitted with obscure glass either in their entirety or up to 1.7m above the floor of the room which the window serves. These windows shall thereafter be maintained as such.
- 6) The retained trees, as shown on the plans hereby approved, shall be protected during the construction process and thereafter retained.
- 7) Prior to the first occupation of the dwelling hereby permitted the vehicle parking and turning area shown on the plans hereby approved shall be laid out for parking and turning and thereafter shall be kept available for parking and turning for the lifetime of the development.
- 8) Prior to the first occupation of the dwelling hereby permitted the modifications to the vehicular access to Horsham Road shall be carried out in accordance with the approved plans.
- 9) Prior to the first occupation of the dwelling hereby permitted, details of visibility splays at that vehicular access at Horsham Road shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the dwelling the visibility splays shall be put in place in accordance with the approved details. The visibility splays shall thereafter be retained for the lifetime of the development and shall be kept clear of any obstruction for 0.6m above carriageway level.
- 10) Prior to the commencement of the development hereby permitted, details of a surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage system shall be implemented in accordance with the approved details prior to the first occupation of the development and shall thereafter be retained for the lifetime of the development.

- 11) 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 additional windows to those shown within the approved plans shall be inserted in any of the elevations of the dwelling hereby approved.