
Appeal Decision

Site visit made on 19 December 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 11th January 2018

Appeal Ref: APP/M3645/W/17/3178913

107 Westhall Road, Warlingham CR6 9HG

- 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 Ghani against the decision of Tandridge District Council.
 - The application Ref TA/2017/292, dated 13 February 2017, was refused by notice dated 12 May 2017.
 - The development proposed is the erection of a single detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed dwelling on the living conditions of neighbouring occupiers of 7 Clovelly Avenue and 105 Westhall Road with particular regard to privacy and outlook; and
 - the effect of the proposed dwelling on the character and appearance of the surrounding area.

Reasons

Living conditions

3. Houses on Westhall Road alongside no. 107 are set at an angle to the road, resulting in staggered development. To the side and rear of no. 107 is Clovelly Avenue, a cul-de-sac comprising detached houses in modest gardens. 7 Clovelly Avenue is located directly to the rear of the existing house at no. 107, with a side patio door facing the mutual boundary. The rear garden and glazed conservatory are located directly to the rear of the location of the proposed dwelling.
4. The proposed dwelling would comprise a two storey detached house, with two bedroom windows in the rear first floor elevation. These two windows would face directly toward the conservatory and rear garden at 7 Clovelly Avenue and at a slight angle to the patio doors in the house. I accept that the existing dwelling, including rear balcony, also face these windows and garden, but that would not reduce the effect of the additional overlooking caused from the proposed new dwelling.

5. Policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies includes that where habitable rooms are in direct alignment, a minimum privacy distance of 22 metres will be required. I accept that there may be cases where some flexibility may be appropriate, but in this case the distance would be significantly less than that, with limited intervening features and on essentially flat ground. The appellant suggests that as these windows serve bedrooms, they would be used in evenings when the windows are closed. I do not accept this is the case and, taking account of all these factors, the provision of windows in such close proximity would result in a loss of privacy to the occupiers of that dwelling. Some overlooking between properties in such an urban location is not unusual. However, the relationship between the proposed dwelling and 7 Clovelly Avenue would be more direct and, consequently, more harmful to the privacy of those neighbouring occupiers.
6. The staggered building line means that the proposed dwelling would be located further forward on the site than the neighbouring dwelling at 105 Westhall Road. Adjacent to the mutual boundary and extending forward of that neighbouring dwelling is the single storey garage projection of that house. The proposed dwelling would be visible over that garage from the road and front garden of that neighbouring property, as well as from their first floor windows and over that garage. However, the closest part of the proposed dwelling would be single storey with a room in the roof, with dormer window to the front and facing away from that neighbouring house. The two storey part of the house would be further away and at an oblique angle such that views between upper floor windows would not be possible. Consequently, the layout of the proposed development and relationship between the properties mean that it would not result in material harm to the outlook or privacy of occupiers of 105 Westhall Road.
7. For the above reasons, I conclude that the proposed development would result in harm to the living conditions of occupiers of 7 Clovelly Avenue by reason of loss of privacy. The proposed development would be contrary to those parts of Policy CSP18 of the Tandridge District Core Strategy (CS) and Policy DP7 of the LP2 that seek a high standard of design that does not significantly harm the living conditions of occupiers of neighbouring properties, with particular regard to privacy and outlook.

Character and appearance

8. Development in Westhall Road comprises predominantly detached houses, with larger plots subdivided over time such that there is a substantial variety in the age and style of development. This results in an eclectic style of development within a sylvan setting of mature trees within gardens.
9. The proposed dwelling would be set on a site of similar width and area to other development in the road. The design of the house would reflect the eclectic style of those around. A number of trees would be retained such that the sylvan setting to the development would be maintained.
10. For these reasons, I conclude that the proposed dwelling would not harm the character and appearance of the area. As a result, the development would comply with those parts of Policy CSP18 of the CA and Policy DP7 of the LP2 that require a high standard of design that reflects and respects the distinctive character and appearance of the area, in particular that development should not result in overdevelopment or unacceptable intensification.

Other matters

11. My attention has been drawn to other appeal decisions. That at 94 Westhall Road related to the relationship of a blank side wall with windows in a neighbouring property in closer proximity than Policy DP7 of the LP2 suggests is appropriate. The case on land to the rear of 377 Limpsfield Road concerned a dwelling to the rear of other dwellings and whether the side wall would be overbearing on the living conditions of those neighbouring occupiers. Again the Inspector in that case suggested that the dimensions in Policy DP7 of the LP2 should be applied flexibly. However, both those cases relate to concerns regarding the outlook of neighbouring occupiers, whereas it is the privacy that I have concluded is at issue in this case, such that I do not consider those cases are directly comparable to the present case. In any event, I need to consider this scheme on its individual merits.
12. I note the discussions between the Council and appellant during the course of the application. However, this does not affect my consideration of the planning merits of the appeal scheme.

Conclusion

13. While I have found that the proposal would not result in harm to the character and appearance of the area, that is not sufficient to outweigh the harmful effect the works would have on the living conditions of occupiers of 7 Clovelly Avenue. Given that results in conflict with development plan policies, I conclude that the proposal would be contrary to the development plan as a whole. As such, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR