



Appeal Decision

Site visit made on 6 December 2017

by Timothy C King BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2018

Appeal Ref: APP/L3625/W/17/3181288

Rear of 17-23 Church Road, Horley, RH6 7EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Breeze Homes Ltd against Reigate & Banstead Borough Council.
 - The application Ref 17/1057/F, is dated 8 May 2017.
 - The development proposed is described as '*Demolition of No 19 Church Road and the erection of 8 new detached dwellings on land to the rear of 17-23 Church Road and 58-60 Massetts Road, Horley, with access from Church Road, together with car parking and landscaping (revision of application 17/228/F).*'
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of No 19 Church Road and the erection of 8 new detached dwellings on land to the rear of 17-23 Church Road and 58-60 Massetts Road, Horley, with access from Church Road, together with car parking and landscaping, subject to the attached schedule of conditions.

Procedural Matters

2. The Council failed to give notice of its decision within the statutory period. However, it has provided putative Reasons for Refusal concerning those matters which I have identified as the two main issues. I have treated these as constituting the decision the Council would have made had it been empowered to do so.
3. Along with my site visit, in accordance with a prior request, I visited No 20 Pine Gardens whose rear garden abuts the appeal site. I gained a clear view of the site beyond the common boundary and also the rear elevations on the adjoining terrace along Pine Gardens.
4. Subsequent to my site visit the Council granted planning permission for a similar development at the site. The approved scheme involves the erection of 7 detached dwellings at the site. The scheme is virtually identical to that the subject of this appeal save for the omission of the dwelling on the section of the site known as Plot 2. I have no reason to consider this would not be built if I dismissed the current appeal. This decision, along with a recent unsuccessful appeal for 9 detached dwellings on the site, are significant material considerations to be taken into account in the determination of the current appeal.

Main Issues

5. The main issues are:

- 1) The proposal's effect on the character and appearance of the surrounding area; and
- 2) Whether the proposal would provide for a satisfactory standard of living conditions for the occupiers of the proposed dwelling on 'Plot 2', with particular regard to privacy.

Reasons

Character and appearance

6. The proposal would involve the erection of eight detached dwellings on undeveloped backland lying to the rear of a series of large detached residential properties along Church Road. In order to access the development it is also proposed that No 19 Church Road be demolished, allowing for an access roadway to facilitate the development.
7. The Inspector, in dismissing the recent appeal for a development for nine houses at the site (*Ref APP/L3625/W/17/3167376*), commented that the proposed layout at the rear of the site would be dominated by the hard surfacing needed to provide for the parking and manoeuvring of vehicles. She found that it would represent a cramped form of development with insufficient provision of landscaping to soften the appearance of the scheme as a whole. As such, she concluded that the proposed development would fail to integrate satisfactorily into the surrounding area.
8. The current scheme proposes one less dwelling unit and shows a less intensive form of development in the middle section of the site. The revised built form would mean a reduction in the associated hardstanding and a reduced concentration of parking spaces in this area of the site. This reconfiguration, combined with the re-sited footprint of the Plot 2 dwelling, would give an increased sense of openness with some larger plots and greater scope for the development to be soft landscaped and appropriately screened. In the above connection, although the development would involve the removal of a number of trees and hedges, all such specimens are of low value. Notwithstanding the protection afforded to the trees due to the conservation area location several are also covered by Tree Preservation Orders (TPO). All these trees would be retained as would those given 'Grade B' rating.
9. The proposal recently granted permission by the Council excludes Plot 2 on the scheme before me. Whilst this would obviously increase the sense of openness I am also satisfied that the alterations and modifications made to the layout following the previous appeal decision are significantly material as to amount to a markedly less intensive form of development. The former Plots 8 and 9 have combined to form a single plot and although the Council mentions that the physical relationship between Plots 7 and 8 would appear uncharacteristically cramped there is little difference between that proposed and the spacings between the similarly sized dwellings at the south end of Pine Gardens.
10. Although the layout to the western end of the site may have changed little from the previous design with respect to the degree of hardstanding involved, when balanced against the merits of the scheme overall I find that the proposal

would provide for a satisfactory layout with a series of adequately spaced dwellings with footprints appropriate to their respective plot areas. As a result I consider that the scale of the development would be in accordance with the prevailing pattern in the locality and would thereby maintain the character of the area.

11. In coming to this view I am aware that the site is in the Massetts Road Conservation Area, the significance of which lies in the manner its buildings and their arrangements affect the evolution of this historic settlement. In the light of my reasoning above and given the extant permission, I consider this significance would not be harmed and the character and appearance of the Conservation Area would be preserved.
12. On this main issue I conclude that the proposal would not be harmful to the character and appearance of the surrounding area, and there would be no material conflict with the aims and requirements of Policies Ho9, Ho13, Ho14 and Ho16 of the Reigate and Banstead Local Plan (LP), Policy CS4 of the Council's Core Strategy (CS), and the relevant design objectives of the Reigate and Banstead Local Distinctiveness Guide Supplementary Planning Document (SPD) or those of the National Planning Policy Framework.

Living conditions

13. The previous appeal scheme showed the footprint of the house on Plot 2 being relatively close to its eastern boundary, and the previous appeal Inspector found that this would result in an unacceptable loss of outlook for occupiers of dwellings in Pine Gardens, beyond. This terrace (Nos 12-20) would face towards a side elevation of the Plot 2 house which, as part of the revisions made, would be lower and has been significantly pulled back into its curtilage allowing for an increased depth of garden.
14. However, the Council has raised concerns that its side and rear garden would be overlooked by residents in Pine Gardens from their first floor bedroom windows. I noted from standing in the rear garden of No 20 that the terrace's rear gardens, in comparison with those of the other dwellings surrounding the site, are limited in depth. As a consequence, the terrace's rear elevation is relatively closer to the common boundary. Nonetheless, whilst this relationship is unusual in the local context it is not uncommon, generally, and although the potential for overlooking of Plot 2's garden would arise I do not consider that the relationship would be unduly intrusive, especially given that the windows do not serve the dwellings' main daytime living areas and the size of that property's rear garden. I thereby consider that the relationship would not be unneighbourly to the detriment of the proposed dwelling.
15. I conclude that the proposal would allow for a satisfactory standard of living conditions for the occupiers of the dwelling at Plot 2 and the dwelling's relationship relative to the neighbouring properties would not conflict with the objectives of LP Policy Ho9 or CS Policy CS4 in this regard.

Other considerations

16. I have had due regard to the representations received from local interested parties who have raised various further concerns. Additional matters include safeguarding the privacies of neighbouring occupiers. I find that these would be protected with vegetative screening by the implementation of an

appropriate landscaping and planting scheme and would be secured by way of a suitably worded planning condition. This approach would also ensure the protection of those trees at the site marked for retention. Indeed, I find that, apart from the addition of the dwelling on Plot 2 the situation arising in this respect would be much the same as that resulting from the revised scheme recently granted planning permission by the Council.

17. Some residents have highlighted matters of increased traffic generation and highway safety, considering that the proposed access road into the site would be too narrow. In this regard they have questioned the safe passage of emergency vehicles. The Highway Authority, a statutory consultee, has, however, raised no objections to the scheme, subject to the imposition of standard conditions which would ensure that matters of safety were addressed at the implementation stage. Current parking problems along Church Road have also been mentioned along with instances of obstruction cited. These are, though, matters of highway enforcement by the appropriate bodies and are not directly relevant to the planning merits of the proposed development.
18. Due to the layout of the scheme and the proposed distances to the various site boundaries it is not considered that either overshadowing or noise and disturbance would result to any significance. As a safeguard during the construction phase an appropriate Construction Management Plan will be required which would, amongst other things, control the hours of working.

Conditions and Conclusion

19. The Council has suggested a number of planning conditions be imposed and I have considered these against the advice in the Planning Practice Guidance. I am in general agreement with these but have altered and condensed the wordings put forward, as necessary.
20. Certain pre-commencement conditions are imposed to require submission and approval of aspects of the development that are not fully described in the application. This includes the requirement for a suitable Construction Management Plan which would deal with all aspects of the development at this stage, to safeguard local interests.
21. In addition to the standard time limitation conditions, in the interests of certainty, I have imposed a condition requiring that the development be carried out in accordance with the submitted plans. To ensure a satisfactory form of development a condition is imposed requiring the submission of samples of external materials for subsequent approval by the Council. I have not transposed the Council's more detailed version of this condition as I consider it more appropriate to allow for flexibility at the approval of details stage.
22. The protection of the existing trees at the site along with new planting and landscaping are addressed by way of appropriate conditions whilst a series of conditions are also imposed to ensure that matters of highway safety are covered. As regards issues of privacy safeguards I note that amendments to the submitted plans show the first floor landing window in the east facing flank wall of the Plot 2 dwelling as having obscured glazing and a condition is imposed to reinforce this as a requirement.
23. Finally, as to the extent of the built form, the Council has suggested that the normal householder permitted development entitlements be withdrawn for all

eight dwellings. Although I have considered each dwelling individually, relative to the size of its plot and the respective boundaries, I do not consider that the relationship to surrounding properties is such as to warrant these restrictions. Further, in this regard, the Planning Practice Guidance advises that these rights should only be withdrawn in exceptional circumstances.

24. For the above reasons, and having had regard to all matters raised, the appeal succeeds.

Timothy C King

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this permission.
- 2) Unless modified under the conditions below, the development hereby approved shall be carried out in accordance with the following plans: Drawings Nos 1710/01, 1710-02, 1710-03, 1710-04 (Rev A), 1710-05 (Rev A), 1710-06 (Rev A), 1710-07 (Rev A), 1710-08, 1710-09, 1710-10, 1710-11, 1710-12, 1710-13, 1710-14 (Rev A), 1710-15 (Rev A), 1710-16, 1710-17, 1710-18, 1710-19 (Rev A), 1710-20 (Rev A) and 1710-21.
- 3) No development shall take place until samples of the external materials to be used for the construction of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall be undertaken until details of both existing and proposed ground levels and the proposed finished ground floor levels of the dwelling have been submitted and approved in writing by the Local planning Authority. The development shall be carried out in accordance with the approved levels.
- 5) No development shall take place until details of both hard and soft landscape works, including hard-surfacing materials and boundary treatments, have been submitted to and approved in writing by the local planning authority. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedule of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and details of the existing trees to be retained, including their spread, girth and species. Development shall be carried out in accordance with the approved details prior to first occupation of any dwelling, or otherwise in accordance with a programme agreed with the local planning authority.
- 6) No development shall take place until a full Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the local planning authority. The AMS shall include the numbering and detailing of trees confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall be implemented in accordance with the approved details.
- 7) No development shall commence including groundworks or demolition until a detailed Tree Protection Plan (TPP) has been submitted to and approved in writing by the local planning authority. The TPP shall contain details of the specification and location of tree protection (barriers and/or ground protection) and any construction activity that may take place within the protected root areas of trees/hedges shown, where retained on the TPP. The tree protection measures shall be installed prior to any development works and will remain in place for the duration of all construction works. The tree protection barriers/ground protection shall only be removed on the completion of all construction activity, including hard landscaping. All works shall be carried out in strict accordance with these details when approved.

- 8) The development hereby approved shall not be occupied until satisfactory spaces have been laid out within the site for car parking and suitable turning space provided in accordance with the plans hereby approved. The car parking spaces shall be retained for these purposes.
- 9) The development hereby approved shall not be occupied until the proposed vehicular access to Church Road has been constructed and provided with visibility splays in accordance with the approved plans. Thereafter, the visibility zones shall be kept permanently clear of any obstruction over 1m high.
- 10) The development hereby approved shall not be occupied until a pedestrian inter-visibility splay measuring 2m x 2m has been provided on either side of the proposed vehicle access to Church Road, the depth measured from the back of the verge and the widths outwards from the edges of the access, in accordance with the approved plans. No obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays.
- 11) The development hereby approved shall not be occupied until the existing vehicular access to the site from Church Road has been permanently closed and any kerbs, verge and footway reinstated, in accordance with the approved plans.
- 12) No development shall take place until a construction management plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of hours of working and how demolition and construction traffic, vehicular access to the site, parking and manoeuvring, materials storage, wheel washing, and facilities for operatives will be accommodated during the development. The development shall be carried out in accordance with the approved CMP.
- 13) The first floor window in the east elevation of the house on Plot 2 shall be glazed with obscured glass which shall be fixed shut, apart from a top hung opening fanlight whose cill height shall not be less than 1.7m above internal floor level, and shall be retained as such at all times.