

Appeal Decision

Hearing Held on 30 January, 2018

Site visit made on 30 January, 2018

by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA

an Inspector appointed by the Secretary of State

Decision date: 22nd March, 2018

Appeal Ref: APP/R3650/W/17/3181581

38 & 40 Petworth Road, Haslemere, GU27 2HX

- 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 Renaissance Retirement Ltd. and Kitewood Investments Ltd. against the decision of Waverley Borough Council.
 - The application Ref: WA/2017/0036 dated 6 January, 2017 was refused by notice dated 23 June, 2017.
 - The development proposed is demolition and re-development to form 23 sheltered apartments for the elderly, including communal facilities, access, car parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Waverley Borough Local Plan Part 1: Strategic Policies and Sites (the LP) was adopted on 20 February, 2018 and is now the relevant development plan for this appeal. Thus, in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004, it has been the starting point for my determination of this appeal.
3. A signed and dated Unilateral Undertaking was presented at the Hearing. I turn to consideration of it below.

Main Issues

4. The main issues are:-
 - the effect of the development on the character and appearance of the area, including the effect on a protected tree;
 - the effect on the living conditions of neighbouring occupiers with respect to privacy and outlook; and
 - whether the proposal makes adequate provision for mitigation of its effects on infrastructure.
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Reasons

Character and Appearance

5. The appeal site comprises two large houses, Nos 38 and 40 Petworth Road, and their generous gardens. It is located within the developed area of Haslemere, to the south of the town centre. The ground slopes steeply down to the north, away from the road, and the existing gardens are arranged in a series of terraces.
6. The proposed building would be of 2 storeys plus roof storey to front, where it has been designed to echo the appearance of two substantial Arts and Crafts Houses, joined by a central, highly glazed element. It would be of three storeys plus roof storeys to the rear, and with wing of one storey plus roof storey projecting along the northwest boundary of the site.
7. Notwithstanding the presence of smaller and terraced properties to the north west of the site, and some insertions of modern developments, the vicinity of the appeal site it is generally characterised by large detached houses in large garden spaces, with strong screening from the road and around their boundaries created by mature shrubs and trees. Houses are generally of two storeys, and in an Arts and Crafts-inspired style.
8. Despite the lightweight walls of the linking structure and its setback from the front building line, due to its roof it would be noticeable, and, in combination with the elements to either side, would create a long continuous frontage at the front of the appeal site. Although the upper floor would be within the roof space, due to the roof lights and dormers it would be signalled as a third floor at the front, and as a fourth floor when viewed from the rear. While the front range of the building would have a similar ridge height to the existing houses at the front, it would have much greater bulk at roof height at the front and running back into the site. The front range would, furthermore, project some distance behind the rear building line of the existing houses along its entire width.
9. The projecting wing would be significantly larger than any existing outhouse or extension in the area, including the existing pool room to No. 38, and would run relatively close to the boundary of the site with No. 36. Although remodelling of ground level would mean that it sat below the base of the existing pool room, it would be at least half as much again in height. As well as adding to the size of the building, it would contrast with the prevailing pattern of development in the area of large houses to the front of their plots, with large gardens behind.
10. The effect in combination would be to create a structure which would be of greater height and conspicuously larger bulk and of uncharacteristic massing in comparison to adjacent dwellings. Although there is some attempt to break up the composition through the stepping of elevations, I find that they would not be able to disguise the sheer size of the structure. While use has been made of swept roofs, cat slides and dormers to reference local designs and break up the roofline, the number and proliferation of such features would make the roof overly complex in comparison to others in the vicinity, while the presence of a large area of crown roof would add to the bulk of the roof and of the building as a whole. I do not therefore find that these features would provide adequate mitigation of the appearance as a very large building.

11. There was some discussion at the Hearing about whether the site would be adequately screened for this effect not to be harmful. While views into the site are restricted by the screening plants, and it is proposed to augment this with further planting, nonetheless, given the seasonal nature of some planting and the inability to guarantee its presence in perpetuity, I find it very unlikely that the occupiers of neighbouring properties would not be aware of the presence and size of the structure. It would also be seen from the road, albeit in transit, and at greater length by anyone visiting the site. Although at some distance from Collards Lane to the west, because of the falling ground in that direction, I cannot discount the possibility that it would be visible from properties along that road or, due to the pronounced slope down, from those on Swan Barn Lane to the rear of the site.
12. Thus the appeal structure would be apparent as an overly large and dominant feature within the area, and as an incongruous and obtrusive insertion would consequently be harmful to its character.
13. Turning now to consideration of the protected tree, this is a mature oak tree in a prominent location at the front of the property. It is large and has high amenity value, on account of which it is protected by a Tree Preservation Order. It sits on a slight raised bank between Nos. 38 and 40, and on a pronounced bank between the properties and the highway.
14. The development would utilise existing hard surfaced areas to the front of the houses to create the in/out access drive to the appeal development. Part of this area is within the Root Protection Area of the oak tree. The exit from the development would be created by the relocation of the existing driveway of No. 40, which is next to the flanking boundary of the site, to a point closer to the centre of the frontage and to the oak tree.
15. Hand excavations had been carried out on site, and I was able to see that only minor roots had been uncovered at points on either side of the tree and behind the front bank. As the submitted drawings indicate that any reduction in ground level in the drive would be minimal, and as the protection of the root system of the tree in ground works and resurfacing works could be effectively controlled by condition, I conclude that this would not be likely to have a harmful effect on the tree.
16. However, a section of the high bank running alongside the road, close to the tree, would need to be removed to create the new access. As root growth would have been constrained by the presence of the highway on one side, there may have been compensation in other areas, including the ground within the appeal site and the bank itself. There was not hand excavation of the bank itself, and I cannot therefore be sure that it does not contain any significant roots. Consequently, I conclude that damage from these works to the root system of the protected tree could not be ruled out, and that as the tree is of a significant age, and therefore less likely to be adaptable to new conditions, there is potential for harm to it, thereby to the character and appearance of the area.
17. I thus conclude that the development would conflict with policy TD1 of the LP, which seeks development which responds to the distinctive local character of the area in which it is located, taking account of design guidance adopted by the Council. The development would also conflict with advice contained within the Haslemere Design Statement.

Living Conditions

18. The development would create a number of new dwellings with windows to habitable rooms facing in the direction of adjacent properties. My attention was drawn particularly to the side windows of flats 12, 20 and 23, located respectively on the first, second and third floors on the side of the building adjoining No. 42. Flat 12 also has a projecting balcony at first floor level to the rear. There would also be windows and roof lights on the elevations and roof slopes facing No. 36 Petworth Road.
19. The siting and height of windows of the existing houses and the mature screening vegetation mean that there is currently very little overlooking between adjacent houses along this part of Petworth Road. I noted windows to habitable rooms on the flank elevation of No. 36 facing the appeal site, and also on the flank elevation of No. 42 facing the appeal site. Currently the separation between these and the existing houses at Nos. 38 and 40 and the screening vegetation mean that there is no significant overlooking.
20. As the windows facing the flank elevations would be obscure glazed, while the roof lights would be at high level, I conclude that overlooking into the windows of habitable rooms on the flanks of Nos. 36 and 42 would not occur. The balcony to Flat 12 could be capable of having a side screen, secured by condition, and would not therefore give rise to harmful overlooking. However, the windows on the rear elevation, which would be located further back within the site than existing windows, and the stepping down of the appeal site and those on either side would mean that, notwithstanding the screening to the sides of the site, there would be likely to be some increase in overlooking of the rear gardens of Nos. 36 and 42, including areas for sitting out, which would be harmful to the living conditions of their occupiers.
21. The development would present a significantly larger built element within the site, set further back than the existing houses and with the wing running along the boundary with No. 36. As I have concluded above, it would be unlikely to be entirely screened by vegetation within the site, and would be likely to be perceived by the occupiers of adjoining properties as a large structure within the near vicinity. It would as a result have a harmful effect on the outlook from these properties, particularly No. 36, including from the garden spaces.
22. The development would therefore conflict with Policy TD1 of the LP, which seeks development which maximises the quality of life and health and well-being of current and future residents.

Mitigation of Effects on Infrastructure

23. Policy ICS1 of the LP is clear that infrastructure considered necessary to support new development must be provided either on- or off- site or by the payment of contributions through planning obligations and/or the Community Infrastructure Levy. The Council has sought a contribution towards the provision of recycling containers.
24. The Unilateral Undertaking is signed and completed. It contains an obligation to pay a sum towards the provision of recycling containers.
25. I am satisfied that the obligation would be necessary, directly related to and fairly and reasonably related in scale and kind to the proposed development, thereby meeting the tests set in Paragraph 204 of the Framework and

Regulation 122 of the Community Infrastructure Levy Regulations. As a result, I would have been able to attach weight to it as a reason for allowing the appeal, had I been minded to do so.

26. I conclude therefore that adequate provision has been made to mitigate the effects of the proposal on infrastructure, and that the proposal would comply with policy ICS1 of the LP.

Other Matters

27. A number of concerns were raised by neighbours of the site including the possibility of reduced levels of light reaching No. 36, possible light pollution during the night, and noise and disturbance arising from the use of the back garden and the car lift. As, however, I am minded to dismiss the appeal, it is not necessary to reach any conclusions on these issues.
28. A further issue, of highway safety, was also raised, and there was a lengthy discussion at the Hearing of the adequacy of proposed vehicular and pedestrian splays and the traffic speed and volume along Petworth Road. Given the speed and frequency of traffic that I noted there, and the nature of the accommodation as retirement housing, I share the concerns of third parties in relation to this issue. Had I been minded to allow the appeal, I would have sought by condition the submission of further information, including details of visibility splays for vehicles and pedestrians, in order to protect highway safety.

Planning Balance and Conclusion

29. Following the adoption of the new Local Plan Part 1, the Council considers that it is now able to demonstrate a 5 year housing land supply, a view also taken by the Examining Inspector in his January letter to the Council, in which he states that "the evidence points clearly to a 5 year housing land supply at the time of writing". Previous appeal decisions put before me by the appellant pre-date the adoption of the Local Plan, and I have seen no evidence of any significant change since this occurred. Consequently, I conclude that there is now a five year housing land supply. Thus paragraph 14 of the National Planning Policy Framework (the Framework) is not engaged, and the tilted balance does not apply.
30. The main parties do not dispute the increasingly elderly nature of the population in the district, and the significant unmet need for more sheltered residential accommodation, and I accept the potential benefits arising from the provision of such accommodation for its occupiers and in terms of supporting local services and facilities and potentially freeing other housing stock.
31. However, for the reasons given above, I conclude that these do not constitute material considerations of sufficient weight to overcome the harm I have identified to the character and appearance of the area and the living conditions of neighbouring occupiers, and the conflict with development plan policy. The appeal is, therefore, dismissed.

S J Buckingham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Brophy	Arboriculturalist
Susan McFarlane	Associate Director and Planner, Renaissance
Noel Alan	Associate Director, Williams Leicester Architects
Rupert Warren	QC instructed by Renaissance

FOR THE COUNCIL:

Louise Yardell	Area Team Manager
Ruth Dovey	Planning Case Officer
Andy Clout	Tree Officer
Matthew Ellis	Planning Policy Officer

INTERESTED PARTIES:

Katherine Curtis	Haslemere Resident
Pippa Mintoft	Haslemere Resident
Sarah Byrne	Haslemere Resident
Steve Parsons	Vision Transport Planning, representing neighbouring occupier at No. 36 Petworth Road
Geoff Douglas	Pelham Planning, representing neighbouring occupier at No. 36 Petworth Road