



Appeal Decision

Site visit made on 17 April 2019

by N Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2019

Appeal Ref: APP/M3645/W/19/3221326

42 Roffes Lane, Chaldon, CR3 5PT

- 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 Steve Murphy (Carrowbeg Developments Ltd) against the decision of Tandridge District Council.
 - The application Ref TA/2018/1872, dated 13 September 2018, was refused by notice dated 03 December 2018.
 - The development proposed is demolition of house and erection of four houses complete with new access drive.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the effect on the character and appearance of the area would be acceptable, with regard to the amount and layout of the development and potential impacts on trees;
 - Whether the effect on living conditions for neighbours of the site would be acceptable, with regard to potential overbearing impacts and privacy;
 - Whether the quality of accommodation provided would be acceptable, with regard to privacy and garden size;
 - Whether the effect on local wildlife would be acceptable;
 - Whether the development would achieve sustainability objectives.

Reasons

Character and appearance

3. The appeal site consists of a detached house with ancillary buildings on a large plot. It is characterised by a number of mature trees and a steeply rising ground level away from the road. The area around the site is, in broad terms, characterised by detached houses set back from the road, on large plots.
4. The appeal scheme would see the removal of the existing house and its replacement with four detached properties. These would be arranged in a linear fashion, with Houses C and D adjacent to one another, at the top of the site.

5. The number of units proposed, when taken together with their arrangement, where they would cover a relatively large amount of the site, would conflict with the general pattern of development in the area. That conflict would be reinforced by the siting of House A, forward of neighbouring houses and nearer to the road. Each of the proposed houses would have much less space around them than most, if not all, of the neighbouring plots.
6. The result would be, and whilst noting what would be a low density of development, the appearance of a relatively cramped layout, in contrast to the more generous arrangements that characterise the area.
7. These harmful impacts would be exacerbated by the levels at the site, which would ensure that the development was prominent in the street scene and the proximity of the buildings to the edges of the site. These factors all contribute to an overall conclusion that the appeal scheme represents an overdevelopment of this site.
8. The appellant has directed me to a development at 22 Roffes Lane, which I viewed from the road on my visit. Whilst I have some, but not all of the details of that case before me, I can understand why the appellant has highlighted it. It appears fairly similar to the appeal scheme in that it saw the replacement of one house with a more intensive form of development in a 'tandem' arrangement, of sorts, and on an elevated site. However, I note that scheme was for three, rather than four units and that whilst it is on the same road as the appeal site, it is a reasonable distance from it; one wouldn't for example, view the two sites together from the road. Overall, whilst I acknowledge the point that the appellant is making, that scheme does not persuade me that the harm I have identified in respect of the appeal scheme should be outweighed by the presence of that development.
9. The Council does not challenge the loss of those trees that are identified as being felled as a result of the development. However, they are concerned that the protection of retained trees has not been properly considered.
10. The appellant does not appear to refute that position, rather, suggesting that such measures could be controlled by way of a planning condition. In the absence of evidence to demonstrate that the scheme, as presented, can be delivered without causing harm to trees, I must find with the Council on this point.
11. There would be no value in imposing a condition without comfort that it could be complied with satisfactorily. Having reviewed the concerns raised by the Council's Tree Officer, and in the absence of evidence to the contrary from the appellant, there is doubt in my mind as to whether that could be achieved.
12. Mature trees are clearly a very significant feature of this site and are important to its character. Whilst I do not have details of it before me, I am informed that a Tree Preservation Order has been introduced at the site, which reinforces the importance of ensuring that the development does not cause harm to retained trees.
13. For these reasons, I consider that the effect of the development on the character and appearance of the area would be unacceptable, in conflict with CSP18 of the Tandridge Core Strategy 2008 (CS) and policies DP7 and DP8 of the Tandridge Local Plan Part 2: Detailed Policies 2014 – 2029, 2014 (TDLP),

which amongst other requirements, seek to secure a high quality of development, appropriate to its setting, including in the case of developing existing garden land and that trees are properly protected.

Living conditions for neighbours

14. I was asked to also view the site from No's 40 and 44 Roffes Lane and I did so. My observations during those elements of my visit have informed my conclusions on this issue.
15. The existing house that occupies the appeal plot sits further back in the site than proposed House B, which would be positioned just behind the rear elevation of No 40 Roffes Lane and near to the boundary with that property. The presence of a tall building so near to the boundary, would, in my view, create an overbearing impact. The side elevation of House B would run alongside almost all of the rear garden at No 40, so as to diminish the enjoyment of the garden.
16. There is existing planting along that boundary, that would mitigate that impact to an extent, but not entirely. In any event, there is nothing before me to demonstrate that this planting would be permanently retained.
17. House C and D would both be built near to the boundaries with neighbouring gardens on either side. The roof slope of those houses would be directed away from the boundaries, but even so, they would be relatively tall structures located at the rear of those gardens. The size and siting of those houses would result in an overbearing impact that would reduce the enjoyment of those gardens for occupiers.
18. First floor windows at Houses C and D would be afforded views into the rear gardens at The Heath, at fairly close quarters. This relationship enhances my concerns as to the impacts of the appeal scheme on living conditions for neighbours.
19. Overall, and for the reasons that I have described, I consider that the effect of the development on living conditions for neighbours of the site would be significantly harmed, in conflict with CSP18 of the CS and Policy DP7 of the TDLP, which seek, amongst other requirements to protect living conditions for neighbours of development.

Quality of accommodation

20. Policy DP7 of the TDLP describes that a distance of at least 22m between habitable room windows of properties is required to protect privacy. Whilst that standard appears directed more towards the impacts of development on neighbours of development sites, it is appropriate to apply it here, where a number of new houses are proposed on one plot. It says that this distance may need to be increased in the case of sloping sites.
21. This site slopes quite significantly so that Houses C and D would be on notably higher ground than House B, which in turn, would be higher than House A. Whilst the parties agree that the minimum 22m standard would broadly be complied with, given the levels at the site, I consider that a greater distance is required in this case.

22. As it is, the front facing first floor windows of Houses C and D would be afforded views at fairly close quarters and from an elevation position over the garden area of House B. Windows at House B would have a similar relationship with the garden at House A. Given the height of those windows and the lay of the land, landscaping could not likely resolve these problematic relationships and the result would be that the rear gardens would not be adequately private. The appellant has described that a degree of overlooking should be expected in an urban environment. I do not think that this context is one where such extensive overlooking is characteristic.
23. The Council is also concerned that the size of the gardens serving the houses would be undersized. They have not directed me to a policy standard and whilst their relatively modest size has contributed towards my finding on character and appearance, I do not consider that they are of a size that can be regarded as substandard.
24. Overall, for the reasons that I have described, the quality of accommodation provided by the development would not be acceptable, in conflict with Policy CSP18 of the CS and Policy DP7 of the TDLP, which seek, amongst other requirements to secure a high standard of living accommodation, including with regard to privacy.

Local wildlife

25. The site contains a number of large mature trees and other hedges and grassed areas. In addition, the proposal would see the demolition of building with a roof space. It seems entirely possible to me that wildlife, including potentially protected species, could be present at the site.
26. No ecological survey has been undertaken. The appellant says that one could be undertaken following the grant of planning permission, but by that time, given that the scheme is fixed it could be too late to properly respond to its findings.
27. There is nothing before me to demonstrate that the layout of the site would have an acceptable impact on any biodiversity there or that if it would not, that any impacts could be acceptably mitigated.
28. On that basis, I cannot be satisfied that the effect of the development on local wildlife would be acceptable, in conflict with Policy CSP17 of the CS and Policy DP19 of the TDLP, which seek to protect biodiversity.

Sustainability

29. Policy CSP14 of the CS requires that new developments achieve savings in carbon dioxide emissions through the provision of renewable energy technologies. The appellant has not described how this would be achieved at the site, suggesting instead that this could be controlled by way of a planning condition. The Council says that a condition would not be appropriate because whatever measures were selected could materially alter the scheme before me.
30. The use of conditions to deal with matters like these is, I think, a common approach. Given the scale of the development, I do not think it likely that whatever measures were proposed would significantly alter the nature of the development before me now. In any event, the Council would be able to determine whether they thought the proposals were acceptable.

31. Accordingly, I find with the appellant on this matter and that, subject to such a condition, the proposal is consistent with Policy CSP14 of the CS and could have achieve sustainability objectives.

Other Matters

32. The scheme would result in the more intensive use of a small site for which there is broad support in the National Planning Policy Framework, and I attach positive weight to that in favour of the proposal. That does not outweigh the harm I have identified, however.
33. There is reference by both main parties to an abortive attempt by the appellant to receive pre-application advice from the Council. That is a matter for the parties and not this appeal.

Conclusions

34. Whilst I have found with the appellant that achieving sustainability objectives could be controlled by way of a planning condition, I have found with the Council in respect of the effects of the development on the character and appearance of the area (including trees), living conditions for neighbours and local wildlife and on the quality of accommodation proposed. As such, I have identified conflicts with the development plan, when taken as a whole and I have not identified material considerations that outweigh those conflicts.
35. Accordingly, the appeal should be dismissed.

N Smith

INSPECTOR