



Appeal Decision

Site visit made on 23 August 2019

by Jamie Reed DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/L3625/W/18/3217128 37 Warren Road, Barnstead SM7 1LG

- 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 Denton Homes Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 18/01313/F, dated 15 June 2018, was refused by notice dated 5 October 2018.
 - The development proposed is described as the 'demolition of 37 Warren Road, erection of 8 dwellings'.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of 37 Warren Road, erection of 8 dwellings in accordance with the terms of the application, Ref 18/01313/F, dated 15 June 2018, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The Reigate and Banstead Borough Local Plan (LP) (2005) was superseded by the Reigate and Banstead Development Management Plan (DMP) adopted on 26 September 2019. The reason for refusal related specifically to policies Ho9, Ho13 and Ho14 of the LP. Ho9 and Ho13 have effectively been superseded by DMP policy DES1 and Policy Ho14 has been superseded by DMP policy DES2. Both parties have had an opportunity to comment on this new document and policies and as such have not been prejudiced.

Background and Main Issue

3. The appeal site has a planning history, including two earlier planning applications¹ for greater quanta of residential development, both of which were subsequently dismissed at appeal. The application that forms the basis of this appeal has been made to try and overcome the previous concerns raised.
4. The main issue in this appeal is the effect of the proposal on the character and appearance of the surrounding area.

¹ Planning applications and associated Appeal refs: 15/02416/F and APP/L3625/W/16/3158877
and 17/02931/F and APP/L3625/W/18/3199894

Reasons

5. The appeal site is located within a predominantly residential area and comprises of the entire plot of 37 Warren Road and rearmost parts of the back gardens of No's 35, 39 41, 43, 45, 47 and 49 Warren Road. A particular characteristic of these properties are their unusually long rear gardens, which would be sub-divided, then combined together in order to form the appeal site. These gardens slope up gradually as they move away from their respective dwellings. This results in the combined land which forms the appeal site being at an elevated position when compared to the dwellings on Warren Road.
6. In order to facilitate the proposal, No 37 would be demolished. The resultant empty plot would then allow sufficient space for a new entrance and driveway to be created to allow access to the wider site to the rear. The new access would not appear unusual within the context of Warren Road, which already has a number of other streets connecting into it, along its length.
7. The proposed 8 dwellings would be positioned parallel to the existing dwellings on Warren Road and would comprise of 3 pairs of semi-detached dwellings that would be flanked by 2 detached properties. In terms of appearance, the proposed dwellings would be of a modern design but with traditional detailing, making them relate well to the other housing in the area.
8. The layout of the dwellings on the appeal site would provide adequate individual plot sizes with features of the area such as front gardens and parking spaces proportionate to the sizes of dwellings proposed. Whilst the proposal would result in a shortening of the garden lengths of the donor properties, these would still be of an acceptable size, comparable to that of others in the surrounding area.
9. The proposal which is before me differs significantly in layout when compared to that of the most recent appeal decision² where concerns such as the height and mass of the dwellings, were raised by the Council. However, this previous proposal was for a greater amount of development. It also featured a number of the dwellings positioned closer towards Warren Road and others set further back, at a higher level. These factors would result in the previous scheme appearing more visually prominent from Warren Road when compared to that which is before me. Consequently, the two proposals are not directly comparable to one another as a result of these differing circumstances. Whilst I am mindful of this previous appeal decision, my conclusion is based upon the merits of the current proposal and the relevant planning considerations before me.
10. In terms of topography, it was evident at my site visit that the highway of Warren Road itself forms one of the lowest points within the surrounding area, with both sides of the street then increasing in height as they move away from the highway. Furthermore, I noted that a number of dwellings could already be seen in between and above the houses on the other side of Warren Road. Such conditions also exist when looking up the side streets that connect into Warren Road, with these also increasing in height as a result of the topography of the area.
11. As a result of these existing conditions, the scale, height and linear form of development that is proposed would appear no different to one of these other nearby streets, where glimpses of properties can be seen from different parts

of Warren Road. As a result, I conclude that the proposal would relate well with the existing streetscene and would be respectful of the spacious character and appearance of Warren Road.

12. Consequently, the proposal would accord with Policy CS4 of the Reigate and Barnstead Local Plan Core Strategy (2014), Policies DES1 and DES2 of the DMP and the Reigate and Barnstead Local Distinctiveness Design Guide (2004). When read together, these policies and guidelines require proposals to be of a high quality design and to make adequate provision for access whilst having regard to and respecting the general pattern and form of development in the surrounding area.

Other Matters

13. As well as effects upon the character and appearance of the area, a number of other matters have been raised by local residents. In respect of those concerns raised regarding disturbance, clearly it is inevitable that some would be experienced during the construction of any dwellings. However, such concerns could be managed and minimised through the imposition of a planning condition relating to the submission and approval of a construction management plan. Once the dwellings have been completed, the appeal site would then be in residential use and would not be introducing anything uncommon to the area as it currently stands. Accordingly, I conclude that the proposal would not result in any unreasonable levels of noise and disturbance, subject to the compliance with the aforementioned condition.
14. Concern has also been raised by residents that due to their elevated position, the proposed dwellings would overshadow Warren Road and its existing dwellings and also give rise to overlooking. It is clear from the submitted drawings however that adequate separation would be provided between each of the proposed dwellings and also between the existing properties on Warren Road. Such an arrangement would ensure overlooking does not occur. Furthermore, the internal site access road, together with the landscaping strip along the site boundary, would effectively form a buffer between the proposed dwellings and the rear gardens of the donor properties. This would further assist in minimising the potential for any direct overlooking or for any overshadowing to occur. I therefore conclude that the proposal would not result in any harm in this regard.
15. In respect of parking and congestion concerns, a Transport Statement² has been submitted which finds no significant harm in this regard and the Council's Highway Officers have reviewed this and are satisfied that there would be no material impact upon the highway network. As a result, I do not consider the proposal would result in any harmful conditions in this regard.
16. With regards to concerns raised in respect of trees, it is acknowledged that whilst a number would be removed in order to facilitate the proposal, replacements are also proposed. These would, over time, add further greenery to the area. An arboricultural report³ accompanies the proposal. This sets out steps and measures that would ensure the proposal would be acceptable with regards to trees and this can be satisfactorily managed via the imposition of

²Transport Statement 170982/TS/MK/RS/02, June 2018

³ Arboricultural Appraisal and Implications Assessment dated 12th June 2018

and compliance with conditions. Accordingly, I conclude that the proposal is acceptable in this regard.

17. Concern has also been raised regarding the potential for harm to wildlife. An ecology report⁴ accompanies the proposal which contains recommendations to ensure that appropriate measures would be put in place to so that no harm would occur. These recommendations can be satisfactorily managed via the imposition of and compliance with conditions. Accordingly, the proposal would be acceptable with regard to the protection of wildlife.
18. Concern has been raised that the proposal could give rise to flooding. However, the appeal site is categorised as being within a Flood Zone 1 area, which means that the area is unlikely to be prone to flooding. As I have nothing before me that draws my attention to any specific site conditions in this regard, I find no reason that would prevent the proposal from proceeding.
19. Residents have said that there is no need for the proposal to go ahead. However, it is clear that the proposal would achieve the aims of the National Planning Policy Framework (NPPF) in terms of making effective use of the land in meeting the need for more housing. Furthermore, the proposal would bring economic benefits during the construction period and extra spending in the local economy. As such, there are clear benefits that the proposal would bring, without causing any demonstrable harm to the surrounding area.
20. Concerns have also been raised in respect of the potential loss of view arising from the proposal. Whilst it is acknowledged that some views that individuals currently experience would change, such matters lie beyond the remit of this appeal.
21. The security of adjoining property boundaries has also been queried by residents. Site hoardings would be erected during the construction phase and new site boundary fencing would be erected prior to the occupation of the dwellings. Such measures can be secured via the imposition and compliance with conditions. Accordingly, the proposal would not result in a lack of security along those neighbouring property boundaries that are shared with the site.

Conditions

22. The Council has suggested a number of planning conditions, which I have considered against the tests set out in Paragraph 55 of the National Planning Policy Framework and the Planning Practice Guidance (PPG), amending the wording where necessary for the sake of simplicity, clarity and precision.
23. In addition to the standard time limit condition, I have specified the approved plans as this provides certainty. It is also necessary to agree details of the appearance of boundary treatments and the materials to be used in the construction of the dwellings in the interests of the appearance of the development and to protect the character and appearance of the surrounding area.
24. To ensure that the proposal relates satisfactorily with the adjoining land and to safeguard the visual amenities of the area, it is necessary to agree the finished floor levels of the dwellings on site, in relation to existing ground levels.

⁴ Preliminary Ecology Appraisal, dated October 2017

25. In order to ensure highway safety and protect the living conditions of neighbours during the construction period, it is essential to agree appropriate means of managing the operation of the site. This can be secured by a condition requiring agreement to a Construction Management Plan. Following this, it will also be necessary to secure via condition the provision of an adequate access road and parking and junction arrangements, prior to the occupation of the development.
26. A condition requiring the erection of protective tree fencing and the prevention of storage in the protected areas is necessary to ensure that the construction phase does not harm the retained trees on site. It is also reasonable in these circumstances to require both the inspection of such protective measures and to seek agreement of foundation details prior to the commencement of works on site. In the interests of the ongoing management and maintenance of the trees, I have also attached conditions requiring any such works to be agreed with the Council and for any replacement planting to be undertaken in the event of any specimens being lost.
27. In order to preserve and enhance the wildlife and habitat interest on the site and to ensure species present are afforded appropriate protection, it will be necessary to impose a condition requiring adherence to the recommendations contained within the ecology report⁵ that supports the proposal.
28. In order to protect the privacy of adjoining occupiers, it will be necessary to impose a condition requiring the first floor windows in the east and west side elevations of the dwellings to be glazed with obscured glass.
29. The PPG advises that conditions restricting permitted development rights should only be imposed in exceptional circumstances. The scope of such a condition needs to be precisely defined so that it is clear exactly what rights have been limited or withdrawn. A restriction of the insertion of any further windows in the upper floors of the dwellings or alterations to the roofs is considered reasonable in this case due to the site levels. Such a restriction would ensure that the development would not give rise to overlooking in the future. I have therefore attached a condition restricting any development contained in Class B of Schedule 2 of the Town and Country Planning (General Permitted Development (England) Order 2015 (GPDO).
30. In order to ensure the dwellings continue to have adequate plot sizes and maintain the spacious characteristics of the area, I consider it reasonable in this case to restrict any further additions to the dwellings such as conservatories and single storey extensions. I have therefore attached a condition also restricting any development contained in Class A of Schedule 2 of the GPDO.
31. Finally, I have not imposed the Council's suggested restrictive condition relating to the use of the dwellings' integral garages. Each dwelling would have an adequate drive length onto which to park vehicles and as such, the retention of the garages solely for parking is unnecessary. It is also unreasonable to prevent the garages from being used as additional living accommodation, as they would have the potential, in any event, to be used by the occupiers for other activities that are incidental to the dwelling. Beyond this, any other activities or operations would require a further planning application to be submitted and such matters would be considered at this stage.

Conclusion

32. For the reasons set out above, I have found that the proposal would not have a harmful effect on the character and appearance of the surrounding area. I therefore conclude that the appeal should be allowed, subject to the conditions as set out in the attached schedule.

Jamie Reed

INSPECTOR

Schedule of Conditions (15 in total)

- 1) The development hereby permitted shall begin not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing and Proposed OS Plan, 060-02-21 Rev B; Existing Elevations, 060-02-23; Existing Plans, 060-02-22; Proposed Site Plan, 60-02-25 Rev B; Proposed House Type A Elevations, 060-01-28 Rev A; Proposed House Type A Plans, 060-01-27 Rev A; Proposed House Type B Elevations, 060-01-32 Rev A; Proposed House Type B Plans, 060-01-31 Rev A; Section A-A, B-B & Streetview, 60-02-33 Rev A and Proposed Setting Out, 60-02-26 Rev B.
- 3) No development shall commence until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No development shall commence including any works of demolition, until a Construction Transport Management Plan, has been submitted to and approved in writing by the local planning authority. The statement shall include details of:
 - parking for vehicles of site personnel, operatives and visitors
 - loading and unloading of plant and materials
 - storage of plant and materials
 - programme of works (including measures for traffic management)
 - provision of boundary hoarding behind any visibility zones
 - measures to prevent the deposit of materials on the highway
 - on-site turning for construction vehicles

The approved Construction Transport Management Plan shall be adhered to throughout the construction period for the development.
- 5) No development shall commence including demolition or any groundworks preparation until a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) is submitted to and approved in writing by the local planning authority. All works shall be carried out in strict accordance with the approved details.
- 6) Notwithstanding the approved plans, no development shall commence until details of the layout for the turning head of the access road and associated vehicle tracking demonstrating the manoeuvrability of a refuse lorry have been submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried out in accordance with the approved details and maintained as such thereafter.

- 7) No development above ground floor slab level shall take place until written details of the materials to be used in the construction of the external surfaces, including fenestration and roof, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 8) The development hereby permitted shall be carried out in accordance with the recommendations set out within the Ecology Report, produced by Applied Ecology and dated October 2017.
- 9) No development above ground floor slab level shall take place until a scheme for the landscaping and replacement tree planting of the site including the retention of existing landscape features has been submitted and approved in writing by the local planning authority.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation of the approved development or in accordance with a programme agreed in writing with the local planning authority.

All new tree planting shall be positioned in accordance with guidelines and advice contained in the current British Standard 5837 - Trees in Relation to Construction.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, and shrubs of the same size and species.

- 10) Notwithstanding the approved plans, the development shall not be occupied until details of the proposed bell-mouth vehicular access to the site from Warren Road; including dropped kerbs and tactile paving at the pedestrian crossing points across the access have been submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried out in accordance with the approved details and maintained as such thereafter.
- 11) The development shall not be occupied until the proposed parking and turning area have been provided in accordance with the approved plans. Once installed these areas shall be maintained as such thereafter.
- 12) The development shall not be occupied until boundary treatments have been erected in accordance with details that have first been submitted to and approved in writing by the local planning authority. The boundary treatments shall be permanently retained thereafter.

- 13) The dwellings hereby permitted shall not be occupied until the first floor windows in their east and west side elevations have been fitted with obscured glass which shall be fixed shut and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the windows shall be retained as such thereafter.
- 14) 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 first floor windows, dormer windows or rooflights other than those expressly authorised by this permission shall be constructed.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or enlargements permitted by Classes A and B of Part 1 of the Second Schedule of the 2015 Order shall be constructed.

*****End of Schedule of Conditions*****