
Appeal Decision

Site visit made on 6 November 2019

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Appeal Ref: APP/C3620/W/19/3235229

21 Cobham Road, Fetcham KT22 9AU

- 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 Kevin Grant against the decision of Mole Valley District Council.
 - The application Ref MO/2018/2189/PLA, dated 12 December 2018, was refused by notice dated 14 February 2019.
 - The development proposed is described as 'demolition of single storey garage, new access road to 3 no of new dwellings. 2x 5 Bed House and 1 x 2 bed house. Retain original house at the front of the site, renovate interior'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on i) character and appearance of the area; ii) living conditions of occupiers of the neighbouring residential property of 19 Cobham Road with particular reference to noise and disturbance and iii) protected species.

Reasons

Character and appearance

3. The appeal site falls within a predominantly residential area. Currently there is a two storey hipped roof dwelling with a detached single storey garage towards the north of the site fronting onto Cobham Road. The rear garden slopes upwards towards the southern boundary, being largely grassed with a number of trees including those protected by a Tree Preservation Order (TPO). Overall, the area comprises detached properties, situated in generally well-proportioned plots and set back from the road but still addressing the public domain, within landscaped gardens. Whilst the site falls outside of an area of special residential character, the spaciousness and the mature landscaping, including that within rear gardens, gives the area a pleasant and verdant character, with dwellings blending into a well-treed landscaped setting.
4. The appeal development would introduce three detached dwellings within the rear garden of 21 Cobham Road, including two, two storey, five bedroom dwellings to the south of the site and one, two bedroom bungalow to the east to the rear of 19 Cobham Road. The properties would be served by an access

drive running along the eastern boundary of the site with No 19 and a shared parking and turning area.

5. The two proposed tall dwellings would be positioned within close proximity of the boundaries of the site. Whilst their relationship with the boundaries would not be overly evident from outside of the site, the appeal development would be visible in part, owing to the views around and between dwellings including the bungalow at No 19 and owing to the sites elevated position relative to Cobham Road. The relative form, scale and position of the proposed dwellings would be out of character with the overriding spacious and verdant character of the area, introducing a constrained development within a well-landscaped back garden environment.
6. Furthermore, the rear garden of the appeal site includes a number of mature trees that are visible from the surrounding highway network. Whilst I note parties' comments with regard to previous removal of trees, the trees currently present at the site contribute significantly to the pleasing verdant, leafy and semi-rural character of the wider area and this is recognised by their protection through a TPO. The appeal development would result in the removal of a number of trees, with 11 individual trees and 2 groups identified for removal by the appellant's tree survey. These include large trees positioned centrally and to the east of the site recognised as being of high and moderate quality by the submitted survey.
7. The loss of these trees would have a significant detrimental impact upon the character and appearance of the area, owing to their prominence and visibility from outside of the site. I note the appellants intention to provide replacement planting including the use of heavy standard trees and green walls. However, given the increasingly constrained nature of the site and the time it would take for any such planting to mature, I do not consider that this would adequately mitigate the detriment caused by the removal of the trees. Similarly, I am not persuaded that the suggested provision of replacement trees through a legal agreement outside of the site, is deliverable or would adequately mitigate the harm caused.
8. The appellant has referenced other decisions and developments within the area, including those provided within a 'backland' location. One of the quoted decisions refers to dwellings erected at Hawks Hill Close, immediately to the south-east of the appeal site. Whilst I acknowledge that some backland development has occurred in the area, I do not find that it is a predominant or overriding characteristic. Furthermore, having assessed the examples provided, the context, position and form of development are materially different from the appeal site. For instance, those referred to at Hawks Mill Close, appear as a continuation of built form and address the public domain, unlike the appeal proposal. In any event, I have determined the appeal on its individual planning merits and within its particular context, and reference to other developments does not alter my findings that the proposal would be at odds with the character of existing built form.
9. Whilst I acknowledge the provisions of the National Planning Policy Framework (the Framework) with regard to increased densities and the lack of adopted amenity provision standards by the Council, I do not consider that these matters demonstrate that the proposal would be sympathetic with the overriding character of the area nor would they outweigh the harm identified

above. Given the above, I consider that owing to the relative scale, position and loss of trees resulting from the development, that the proposal would be at odds with the prevailing and pleasing verdant character created by well treed and spacious back gardens.

10. For the above reasons, I conclude that the proposed development would harm the character and appearance of the area. As such, it would be contrary to Policy CS14 of the Mole Valley Local Development Framework Core Strategy 2009 (CS) and policy ENV22 of the Mole Valley Local Plan 2000 (LP) which seek, amongst other things, that development respects the character and appearance of the locality. It would also be contrary to LP Policy ENV23 which seeks development that respects its setting; LP Policy ENV24 that seeks to resist development that would result in a cramped appearance; LP Policy ENV25, CS policies CS15 and CS16 that seek amongst other things, to allow sufficient space to enable existing trees of significant public amenity value to be retained; and LP Policy ENV53 that seeks to preserve and enhance existing tree cover in built-up areas. The proposal would also fail to accord with the design requirements of Chapter 12 of the Framework and advice contained within British Standard 5837:2012 'Trees in relation to design, demolition and construction – Recommendations'.

Living conditions

11. The proposal would result in the demolition of the existing garage and the provision of an access road immediately adjacent to the boundary with 19 Cobham Road. Owing to the position of the access road and the quantum of development, the proposal would result in a significant number of vehicular movements immediately adjacent to, and along the full depth of, the rear garden serving No 19. Given this it would be difficult for users of the garden to avoid noise and disturbance arising from the traffic movements that would be introduced. Additionally, the parking and turning areas would also result in additional noise and disturbance from manoeuvring vehicles, owing to their position to the rear of the neighbouring property.
12. I consider this would significantly impact upon the living conditions of occupiers of No 19 by virtue of noise and disturbance. The appellant contends that such impact could be minimised through the use of noise reducing surface materials, although I am not persuaded that this would adequately mitigate all likely forms of disturbance including that from manoeuvring vehicles.
13. For the above reasons, I conclude that the proposal would not accord with Policy ENV22 of the LP which seeks, amongst other things, that development does not significantly harm the amenities of occupiers of neighbouring properties. The proposal would also fail to accord with the living conditions aims of the Framework, including those within chapter 15.

Protected species

14. The planning application was supported by a preliminary ecological appraisal, with survey work undertaken in December 2018 outside of the main bat roosting season. The report indicates that Building B2, the detached garage, has low suitability for roosting bats; two trees identified as 'Tree Numbers 10 and 11' were indicated as having moderate bat roosting potential; and a further tree identified as 'Tree Number 12' was indicated as having high bat roosting potential. The report states that further survey work should be

undertaken to establish the presence of bats during the recognised roosting season. The appellant has indicated that further survey work has been undertaken and that bats were not found, although these details have not been provided in support of this appeal.

15. Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. This is a material consideration and must be addressed in making the decision. As it has not been adequately shown that there would not be harm in relation to this issue, then all surveys necessary should be undertaken before any planning permissions are granted, as made clear in the circular.
16. Having regard to the above, I consider that there is reasonable likelihood of protected species being present. In the absence of further survey work being provided, as identified by the appellant's own ecologist, I cannot be satisfied that the proposal would not have an adverse effect on any protected species.
17. For the reasons outlined above, I conclude that in the absence of the provision of further survey work, that the proposal would not accord with the provisions of Policy CS15 of the CS and Policy ENV15 of the LP. These policies seek amongst other things to ensure that where development would likely result in harm to a protected species or its habitat, a thorough investigation will be necessary by the applicant and development that would materially harm a protected species or its habitat will not be permitted. The proposal would also fail to accord with the natural environment aims of the Framework, including those within chapter 15.

Planning Balance and Conclusion

18. The Council acknowledge that it cannot currently demonstrate a five year supply of land for housing development, indicating a slightly improved position of 2.63 years (compared to 2.48 years detailed within the officer report). It follows by virtue of footnote 7 to paragraph 11 of the Framework that the tilted balance applies.
19. For the reasons detailed above, I have found that the appeal development would be harmful to the character and appearance of the area; living conditions of occupiers of 19 Cobham Road and it has not been adequately demonstrated that the proposal will not adversely impact upon protected species. This has led to conflict with various development plan policies as detailed previously. I consider that these policies constitute the most important policies as referred to by paragraph 11(d) of the Framework. I further consider that these policies are consistent with the Framework, including paragraph 127 relating to design and as such are not out of date for the purposes of paragraph 11. It follows that the conflict with them carries full weight.
20. Against the harm and conflict with the development plan outlined above has to be balanced the benefits of the proposal. These would be in the form of three new dwellings that would add to the Council's five year supply and be a positive factor in terms of the social limb of sustainability. There would also be benefits in terms of the economy.
21. However, when assessed against the policies in the Framework taken as a whole, the adverse impacts would, to my mind, significantly and demonstrably

outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

Conclusion

22. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR