
Appeal Decision

Site visit made on 26 November 2019

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Appeal Ref: APP/L3625/W/19/3234025
36 Vernon Walk, Tadworth KT20 5QP

- 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 A Taylor against the decision of Reigate & Banstead Borough Council.
 - The application Ref 19/00706/F, dated 8 April 2019, was refused by notice dated 6 June 2019.
 - The development proposed is demolition of attached side garage; erection of two 2-storey detached family dwellings with integral garaging; formation of a new vehicular accessway; provision of landscaping and two parking spaces within frontage of donor dwelling.
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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) the character and appearance of the area;
 - (ii) the existing trees having particular regard to the site's location to a Protected Oak Tree immediately to the north of the site; and
 - (iii) the living conditions of the occupants of No. 36 Vernon Walk with particular regard to noise and disturbance associated with the new vehicular access way.

Reasons

3. The appeal site forms part of the rear garden area of No. 36 Vernon Walk, a two storey semi-detached dwelling set within a relatively spacious plot. The site is a largely open and verdant area, with a number of trees and other mature planting within and immediately adjacent to the site. The proposal would involve the demolition of the existing garage on the site and the construction of 2 no. detached two storey dwellings with integral garaging and the formation of a new vehicular accessway.
4. The surrounding area is predominantly residential in character. The properties on Vernon Walk are typically characterised by semi-detached properties set back from the road behind small front gardens/driveways and generally larger narrow rear gardens. The northern boundary abuts a tree lined public footpath

leading to an extensive area of woodland within the Green Belt to the rear of the site which adds to the open and verdant character of the area. A small higher density cul-de-sac development of two storey dwellings is located at the end of Vernon Walk immediately to north of the appeal site. These do not appear to be prevalent in the immediate vicinity of the site. The development would therefore create some variety in the built form of the area.

5. The existing character of the site would change significantly as a result of the development on this open undeveloped area of land. However, Saved Policy Ho14 of the Reigate and Banstead Borough Local Plan 2005 (LP) supports the principle of redevelopment in backland locations, subject to a number of criteria. A change in the nature of the site would be an inevitable consequence of this. The Council has not raised concerns in relation to the principle of development in this location. Rather, it considers the specifics of the scheme to be inappropriate. This would be consistent with the conclusion taken by an Inspector considering a previous application and appeal for a nearby residential development, at the rear of 1-7 Shelveys Way¹, who recognised that such development would not be unduly harmful on the urban open land to the rear of the properties in achieving an appropriate transition to the Green Belt. An additional example would not necessarily be harmful in principle as a result.
6. Variety does not necessarily lead to harm. Although the proposed dwellings would not appear overlarge relative to the overall plot size and, visually, the design of the dwellings would be acceptable, the scale and two storey form of the proposed dwellings would nevertheless be substantial in this location. The proposed dwellings positioned close together and in close proximity to the side boundaries, would provide limited opportunity to soften the impact of development through a comprehensive landscaping scheme. As such, although they would be set back behind the existing development, the proposed dwellings, by virtue of their scale, massing and layout would appear visually cramped, compromising the sense of space and openness in the area.
7. The consequential harm would not in my view be sufficiently resolved by the limited effect of the proposed dwellings on the street scene. In any case, the site is viewed from the rear of a number of surrounding properties and the adjacent public footpaths. These shortcomings would be exacerbated by the proposed removal of a number of the established trees within and along the boundaries of the site.
8. I have considered the appellant's arguments that the site layout and the design of the dwellings have been carefully considered in order to minimise any impacts on adjacent dwellings and the area and would be in keeping with the other properties in the area. Whilst I recognise there is some variation in housing styles in the area and the use of matching materials, fenestrations, landscaping and boundary treatment would assist with integrating the proposal with the area and would reduce overall visual impact, these aspects do not overcome the adverse effects outlined above. As such, irrespective of the design approach, I consider the proposed development would adversely harm rather than positively contribute to the character and appearance of the area.
9. Consequently, I conclude that the proposed development would have a harmful effect on the character and appearance of the area. The development conflicts with Saved Policies Ho9, Ho13 and Ho14 of the LP, Policies CS4 and CS10 of

¹ 15/02752/F

the Reigate and Banstead Core Strategy 2014 (CS) and the Reigate and Banstead Local Distinctiveness Design Guide Supplementary Planning Guidance 2004. These policies and guidance seek, amongst other things, to ensure developments are of a high quality design that reflects the existing character of the area and the local distinctiveness. In addition, it would not accord with the aims of the National Planning Policy Framework (the Framework) that seeks to secure developments that will add to the overall quality of the area and are sympathetic to the local character (paragraph 127).

Trees

10. The proposed dwellings would be situated in close proximity to a number of established trees within and immediately adjacent to the site, some of which are protected by a Tree Preservation Order (TPO) including one large Oak Tree immediately to the north of the site. These established trees make a significant contribution to the visual amenity of the area.
11. The protected Oak Tree (T10) is identified in the appellant's submitted arboricultural impact assessment as in good/fair physiological/structural condition and of a moderate arboricultural quality (Category B1), where retention is of a high priority due to its arboricultural and landscape qualities². British Standard *Trees in Relation to Design, Demolition and Construction – Recommendations* (BS5837:2012) requires an assessment of the likely long term implications of the schemes for the trees, taking into account future growth, shading and compatibility with users of the site. The Standard is a significant material consideration.
12. In terms of shading, given the design and layout of the proposed dwelling, orientation and the separation distance from the mature Oak Tree (T10), I consider that there would not be a significant loss of available light and shading of the dwelling and rear amenity area on Plot 2. The Council's Decision Notice also refers to two Ash trees (T11 and T12) immediately to the north of the site, but from the evidence provided and my observations during my site visit, there appears to be little substantive evidence to indicate that these trees will be adversely harmed by the proposed development.
13. However, the proposed dwelling on Plot 1 would be located close to the northern boundary of the site. In this position it would be within the Root Protection Area and the crown spread of the Oak Tree (T10). Whilst the tree protection measures and recommended tree works proposed in the arboricultural impact assessment would reduce the impact of the proposal to some degree, the relationship between the protected tree and the dwelling would nevertheless be more constrained and as such, in my view, would lead to a loss of available light and shading of the dwelling and rear amenity area.
14. Therefore, the possibility cannot be discounted that, over time, given the constrained relationship with the proposed dwelling, the future occupants would be increasingly likely to seek to significantly reduce or remove the protected tree. Moreover, although any prospective new occupiers would be aware of the TPO, it is not unusual for the full implications of shade or concerns about tree safety to gradually manifest themselves over time. In the circumstances here, there is a potential likelihood that future occupiers would seek to reduce the tree cover. The proximity of the tree to the house would

² Arbor Cultural Ltd Arboricultural Impact Assessment and Method Statement dated 3 March 2019

enhance the prospects of a persuasive case being made, despite the protection afforded by a TPO.

15. Overall, the evidence before me indicates a strong likelihood that constructing the proposed scheme would adversely impact on the visual amenity of the area and lead to irresistible post development pressure to heavily prune or fell the protected Oak Tree (T10). Consequently, I conclude that the proposal would be contrary to the overall aims of Saved Policy Pc4 of the LP, which seeks to protect, conserve and enhance the tree cover in the area.

Living conditions of the existing occupiers

16. The creation of a new access driveway alongside No. 36 Vernon Walk would clearly lead to an increase in vehicular movements passing by the side of the existing dwelling. This is likely to lead to some increase in noise levels. However, as noted above, there is an access road leading to a cul-de-sac immediately to the north of No. 36 already. The occupiers of No. 36 would therefore be used to a certain degree of noise and disturbance. The Council have not provided any evidence which demonstrates the proposed access would generate a more harmful level of noise or disturbance compared to those already in place.
17. The proposed scheme would incorporate a new 1.8m high timber fence along the route of the access way. If I had been minded to allow the appeal, then this would have been an appropriate measure to further protect the existing occupants from unacceptable levels of noise and disturbance.
18. As such, I conclude that the development would not adversely harm the living conditions of the occupants of No. 36 Vernon Walk as a result of noise and disturbance associated with the new vehicular access way. Accordingly, there would be no conflict with Saved Policies Ho9, Ho13 and Ho14 of the LP and Policy CS10 of the CS which seek, amongst other things, to ensure development does not have an unacceptable impact on the amenity of existing occupants. In addition, it would accord with the Framework that development should seek to create places that promote health and well-being, with a high standard of amenity for existing and future users (paragraph 127).

Other Matters

19. I have considered the various benefits put forward by the appellant that the proposal would bring arising from the additional new family-sized dwellings, the scheme's design and the efficient use of land on a small site within an accessible location. While I have given them some weight in favour of the appeal, these benefits would not be sufficient to outweigh the harm I have identified. For all these reasons, there are no other material considerations to outweigh the development plan conflicts identified.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR