



Appeal Decision

Hearing held on 8 October 2019

Site visit made on 8 October 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2019

Appeal Ref: APP/L3625/W/18/3215574

101-111 Tattenham Way, Burgh Heath KT20 5NE

- 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 McCarthy & Stone Retirement Lifestyles Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 18/00976/F, dated 30 April 2018, was refused by notice dated 22 August 2018.
 - The development proposed is demolition of existing buildings and redevelopment to form 39 Retirement Living apartments for older persons including communal facilities, car parking and associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Reigate and Banstead Development Management Plan (DMP) was formally adopted on 26 September 2019. Alongside the Reigate and Banstead Core Strategy (2014) (Core Strategy), the DMP forms part of the development plan for the Borough. Those policies of the Reigate and Banstead Borough Local Plan 2005 which are cited on the decision notice have been superseded. Furthermore, the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) have both been updated since the evidence was prepared. The hearing gave the parties the opportunity to comment on the implications of this altered policy context for the appeal.
3. The appellant submitted amended plans a week in advance of the hearing. These show adjustments to the fenestration on the rear leg of the proposed building, specifically that part closest to No 66 and No 67 Waterer Gardens. As those neighbours were present at the hearing to give their views, no party would be prejudiced by my determining the appeal against the amended plans.
4. A draft unilateral undertaking (UU) was discussed at the hearing with a signed version being provided after the close of the event. The Council has raised concerns about a last minute change to one of the clauses within the planning obligation to accommodate one of the mortgagees. However, it seems to me that any risks involved in accepting this drafting are negligible. I have therefore undertaken the planning balance on the basis that the contribution is secure. As regards the contribution itself, the Council has agreed a reduced figure following viability assessment. This addresses the third refusal reason.

5. During my site visit I was able to assess the proposal from the rear gardens of No 66 and No 67 Waterer Gardens.

Main Issues

6. The main issues for consideration in this appeal are:
 - a) the effect of the proposal on the character and appearance of the area; and
 - b) the effect on the living conditions of the occupiers of No 66 and No 67 Waterer Gardens, with reference to privacy and outlook.

Reasons

Character and appearance

7. The appeal site comprises 3 pairs of semi-detached houses with long rear gardens. The properties face onto the junction of Tattenham Way and Reigate Road behind a short slip road which is the remnant of a highway improvement scheme. The surrounding area is residential in character, although there is a parade of shops diagonally opposite the site and a supermarket a short distance to the south along Reigate Road. Tattenham Way as a whole contains a mix of detached and semi-detached houses, regularly spaced and set within a leafy suburban environment. The adjacent stretch of Reigate Road contains a predominance of modern bungalows, with a bungalow and a pair of vernacular cottages backing directly onto the appeal site.
8. The site does not lie within a conservation area and it is not covered by a Residential Area of Special Character designation. The Council has sought to apply Core Strategy Policy CS4 to the appeal scheme, but I note this relates specifically to valued townscapes and the historic environment. No definition of 'valued townscapes' is provided, and therefore it is matter of judgement as to whether the policy applies, but paragraph 5.4.2 of the supporting text indicates that unique character and a strong sense of place are both prerequisites. The wider area is undoubtedly pleasant, but the traffic dominated road junction has a deleterious effect of the quality of environment and thus I do not consider that the locality of the site possesses the attributes of a valued townscape.
9. In my opinion, the proposal should be considered against DMP Policy DES1. This expects new development to be of a high quality design that makes a positive contribution to the character and appearance of its surroundings. Of the criteria listed in the policy, the first three are of particular relevance. Amongst other things, these seek to ensure that development promotes and reinforces local distinctiveness, respects the character of the surrounding area and has due regard to the layout, density, plot sizes, building siting, scale, massing, height, and roofscapes of the surrounding area, the relationship to neighbouring buildings, and important views into and out of the site.
10. The application is supported by verified view montages (VVMs) which show how the development would look from the street. The Council queried one of the VVMs, but they have been prepared by a specialist company according to a recognised methodology and therefore I have no reason to think that they are inaccurate. That said, the VVMs are only representative of three views; my site inspection enabled me to assess the likely impacts from other positions.

11. The scheme would replace three pairs of modest semi-detached dwellings with a single large building on a T-shaped footprint. This would not accord with the grain of development in Tattenham Way, but I note this is not being raised as a concern. The Council has no objection to the principle of redeveloping the site for specialist accommodation for older people or the increased density which is part and parcel of this type of development. Furthermore, it considers the layout to be acceptable. I have no reason to take a different view; the question for me to consider is whether the design and three dimensional form being proposed would be compatible with the character of the surrounding area.
12. The parties agree that the front building line is acceptable. Tattenham Way was altered as part of highway works to create the adjacent signalised junction. The proposed building would step forward to follow the new kerb alignment. This would create better definition for the street, in line with recognised urban design principles, but it would also increase the prominence of the development by placing it in the forefront of views on the approaches to the junction.
13. Three-storey development is not characteristic of this part of Burgh Heath. The properties in the visual setting of the site are mainly bungalows and two-storey houses. The nearby parade of shops contains 3 floors of accommodation, but the upper storey is contained within the roof space and the building reads as 2½ storeys due to the modest height eaves. Although my attention has been drawn to the Rosebery Care Home, a building of considerable scale, this is set back behind a well treed frontage and is somewhere in the order of 500 m away to the north. This does not form part of the immediate site context.
14. The proposed frontage block would be significantly taller and bulkier than those properties surrounding. The appellant contends that the mass would be broken up into three discrete elements, using a staggered façade, a varied palette of materials and symmetry to mimic semi-detached houses. However, in my assessment, the individual building elements would converge to form a single terrace, with the overlapping hipped roofs appearing contrived. The design of the development would not adequately reflect the scale, spacing or rhythm of the existing two-storey housing which characterises Tattenham Way.
15. There is some merit to the appellant's argument that 3-storey development would be beneficial in creating enclosure at the road junction. However, the height and bulk of the block closest to the junction would be a striking feature in the street scene, particularly in short range views and on the approaches along Reigate Road and Great Tattenhams respectively. Due to its scale, this part of the scheme would be unduly dominant and out of context.
16. The Council has raised additional concerns regarding the visual impact of the proposed rear leg of the building. This would project almost the full depth of the site at 2½ storeys, dropping to 2 storeys at the southern end. The rear leg would be visible in the gaps between the buildings on Reigate Road. However, these views would be at some distance and filtered by landscaping. In the context of a built-up area and taking account of perspective in reducing the apparent height of the rear leg, I do not consider that brief 'kinetic' views of this part of the building would be materially harmful to the street scene of Reigate Road.
17. Reference has been made to an appeal decision at Great Tattenhams in relation to Churchill Retirement Living. I have not been provided with the approved plans for this scheme but am told that it will have a rear central leg similar in concept to that being proposed for the current appeal. I have noted the

Council's comment that the design of the frontage block is materially different in terms of its use of subservient links. Notwithstanding any such comparisons, accurate or otherwise, each proposal must be considered on its merits.

18. The townscape in this particular part of Tattenham Way is not subject to any designations and does have the ability to accommodate change. The Council clearly recognises this, and furthermore it acknowledges the parameters within which supported retirement living schemes are designed. I concur with the appellant that development proposals can respect the character of an area without needing to mimic it. Nevertheless, in failing to have due regard to the scale, height and massing of surrounding buildings the proposal would cause significant harm to the character and appearance of the area. This would bring it into conflict with DMP Policy DES1.

Living conditions

19. The rear leg of the proposed building would terminate approximately 5.3 m from the back gardens of No 66 and No 67 Waterer Gardens. The boundary is marked by a line of trees, including a number of tall Leyland cypress, a yew and holly. Some of these trees are within the ownership and control of the occupiers of No 66 whereas those to the rear of No 67 are located within the site itself.
20. All species are evergreen and several of the Leyland cypress are at least as tall as the 2-storey block being proposed adjacent to the boundary. This would make them effective in screening the development. There would be glimpses of roof between the tree crowns, but given the building position, set back off the boundary behind dense tree foliage, and with a hipped roof sloping away from the neighbours, I do not consider that the scheme would be overbearing.
21. The future loss of individual trees might give rise to overlooking from first floor windows in the development into the gardens of No 66 and No 67. This would be intrusive, and it would result in harmful invasion of privacy, notwithstanding the generous separation distance between the proposed building and the bungalows themselves. A planning condition could be used to secure replacement planting to reinstate a vegetation screen, but this would take time to mature. Therefore, I consider that the amendments shown on the revised plans would be necessary to guard against possible harm. Although the Council expressed concern regarding the unrelieved mass of brickwork arising from the deletion of windows, this would be largely screened by greenery.
22. Subject to conditions to secure construction in accordance with the amended plans and management of landscaping in perpetuity, the proposal would not adversely impact upon the living conditions of occupants of No 66 and No 67 Waterer Gardens. It would therefore comply with criterion 5 of DMP Policy DES1 which seeks to protect the amenity of occupants of existing nearby buildings.

Planning balance

23. The appeal scheme is being promoted on the basis that it would help to meet an identified need, in line with Core Strategy Policy CS14 and DMP Policy DES7. These policies are consistent with paragraph 61 of the Framework in encouraging the provision of housing for older people in sustainable locations. The PPG emphasises that providing housing for older people is critical. Supported independent retirement living has been shown to reduce the costs to health and social services and free up family-sized houses that are under-

occupied. It also reduces anxiety by removing the burden of property maintenance, improves the sense of safety and security and addresses loneliness by providing opportunities for companionship.

24. The Council does not dispute these benefits, or that there is a local need for specialised accommodation for older people. The evidence indicates that the total demand equates to about 25% of the total planned housing supply in the Borough over the Core Strategy period, with 821-887 units being projected for provision by the private sector. This represents a substantial level of need, notwithstanding the Council's published position whereby it can demonstrate in excess of five-years supply of deliverable housing land overall. The DMP allocates land for at least 200 homes for older persons, but the majority of supply will need to come from windfall sites. In this context, the social benefits of providing an additional 39 retirement living apartments attract considerable weight.
25. The submitted UU makes provision for a financial contribution of £218,000 towards off-site affordable housing provision. Local finance considerations are material to the appeal; taken together with Community Infrastructure Levy and New Homes Bonus receipts, the scheme would provide £882,000 of monies for the local authority. This is in addition to the boost to the construction industry during the build phase and thereafter through residents spending in local shops and businesses. I have attached these economic benefits a moderate degree of weight in the planning balance.
26. The appellant conceded at the hearing that the site could have better access to services and facilities but still considered the location to be good. There are shops and public transport opportunities nearby and buggy/scooter storage would be provided within the proposed building. This means that future residents would not need to rely upon the private car. Empirical research provides robust justification for the reduced level of parking being proposed.
27. Drawing the threads together, the proposal pulls in different directions. On the one hand, it complies with Core Strategy Policies CS14 and CS15 and DMP Policy DES7 in relation to the provision of housing for older persons and affordable housing. The scheme would be sustainably located, and it would accord with the Council's strategy to make best use of land in its urban areas. However, the harm arising from the design of the scheme would lead to conflict with DMP Policy DES1. This is sufficient to bring the scheme into conflict with the development plan taken as a whole.
28. The appellant has advanced numerous reasons why the proposal should be supported. I agree that the benefits would be significant. However, I must balance these against the harm. The adverse impacts on the townscape would be substantial and long term, and therefore I have given them considerable weight. Having given careful attention to all relevant factors, I find that the other material considerations are not sufficient to outweigh the conflict with development plan policy.

Conclusion

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

Robert Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robert Walton	of Queen's Counsel
Dr Allan Burns	Traffic and transport consultant
Alex Child MRTPI	Director, The Planning Bureau Ltd
Jeremy Osborne	Design Director, Inspire Design Ltd
Kenny Brown	Urban Designer, Townscape Solutions Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Hollie Marshall BA Hons PG Dip TP MRTPI	Senior Planning Officer
Rosie Baker BSc Hons MSc MRTPI	Senior Planning Officer
Clare Chappell	Graduate Planning Officer

INTERESTED PARTIES:

Mr & Mrs Malcolm Parr	Local residents
Gail Thomas	Local resident

Documents submitted at the hearing

1. Email from Mr & Mrs Parr dated 7 October 2019
2. Email from Mr & Mrs Ferrier dated 7 October 2019
3. Landscaping scheme – Drawing no. 9883-KC-XX-YTREE-LMP03RevA
4. Appeal notification letters dated 6 and 12 June 2019 and circulation list

Correspondence received after the hearing

5. Email from Hollie Marshall of the Council dated 9 October 2019 @13:16 with attachment

6. Email from Alex Child of The Planning Bureau dated 11 October 2019 @17:09 with 3 attachments
7. Email from Marianne Ironside of Lester Aldridge dated 29 October 2019 @17:00 with 3 attachments
8. Email from Hollie Marshall of the Council dated 1 November 2019 @15:39
9. Email from Ian Hann of McCarthy & Stone dated 4 November 2019 @10:37
10. Email from Tom Alder of Lester Aldridge dated 6 November 2019 @17:15 with 1 attachment
11. Email from Tom Alder of Lester Aldridge dated 8 November 2019 @12:38 enclosing signed unilateral undertaking of the same date
12. Email from Hollie Marshall of the Council dated 15 November 2019 @10:38 setting out Council's comments on the unilateral undertaking