
Appeal Decision

Site visit made on 20 January 2020

by Mr D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State

Decision date: 14 February 2020

Appeal Ref: APP/M3645/W/19/3239265
16 The Heath, Chaldon, Caterham CR3 5DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs W Lee against the decision of Tandridge District Council.
 - The application Ref TA/2019/935, dated 20 May 2019, was refused by notice dated 6 September 2019.
 - The development proposed is the demolition of an existing garage, erection of one dwelling and formation of a new access road.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing garage, erection of one dwelling and formation of a new access road at 16 The Heath, Chaldon, Caterham, CR3 5DG in accordance with the terms of the application, Ref TA/2019/935, dated 20 May 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mrs W Lee against Tandridge District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is in outline form with all matters reserved - layout, access, scale, appearance and landscaping. For the purposes of this appeal I am treating the submitted drawings as only indicative of the proposed development.
4. A previous outline planning application with all matters reserved for development at the site involving the demolition of an existing garage to create a new access route and the construction of 2 dwellings was dismissed at appeal in 2018 (APP/M3645/W/18/3200216). I have paid regard to this decision, while at the same time considering this appeal on its own merits.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area; and
- the effect of the proposed development on the living conditions of occupiers of properties nearby in terms of loss of privacy resulting from overlooking, and noise and disturbance.

Reasons

Character and appearance

6. The appeal site sits predominantly to the rear of 16 The Heath, a two storey detached dwelling of modern appearance that is typical of others nearby. Long rear gardens with mature planting are part of the general character of properties on this side of The Heath. It appears that some of the land included in the appeal site was once part of the neighbouring No.14, which gives No.16 a wider garden towards the rear boundary. The newly constructed properties on Marshall Close and more established properties on Fryern Road share rear and side boundaries with the appeal site and sit in smaller plots. The site is on slightly higher ground than the neighbouring No.14 and properties beyond due to a gradient that becomes more pronounced as it moves away from the Marshall Close end of The Heath.
7. The proposed development would introduce a detached dwelling to the wider part of the rear garden of No.16. The curtilage of the new dwelling is indicated as extending to the common boundaries of No.14 and the adjoining properties on Marshall Close and Fryern Road.
8. The new dwelling would be accessed independently from The Heath via an access road running the boundary with No.14 that would include a hammerhead fronting the dwelling to provide parking and turning space for vehicles. Access would be facilitated by the demolition of the existing garage space that is integral to No.16.
9. It is noted that the previous appeal decision relating to the site makes reference to concerns about the quantum of development proposed and the constraints that would result on the curtilages and positioning of the proposed new dwellings. The proposed development seeks to resolve these concerns by reducing the number of dwellings from 2 to a single house.
10. The proposed development would create a new curtilage for No.16 that would be similar to the neighbouring No.14. The new dwelling would sit in a square plot in the area furthest away from No.16. Whilst the submitted plans are illustrative, and the precise location of the new dwelling would be considered as part of later reserved matters, the size of the curtilage created for the new dwelling would be generally comparable to other properties towards the rear boundary and therefore capable of accommodating a dwelling of the size indicated on the plans without harm to the character and appearance of the area resulting.

11. In light of the above, I conclude that the curtilages created by the proposed development, for both the new dwelling and No.16, would be of a size that is consistent with the prevailing area and would not result in inappropriate sub-division of the appeal site. As such, the proposed development would not be considered hemmed in or of a nature that is inconsistent with the general pattern of development in the area.
12. The access to the proposed development, whilst lengthy, would be mostly publicly perceivable from immediately outside 16 The Heath. It is acknowledged that lengthy accesses are not generally part of the pattern of development along The Heath as properties mostly sit closer to the road. However, the proposed access would be limited in width and, as such, in public views from The Heath the appearance of it would not have a detrimental impact on the character of the area.
13. It is acknowledged that the access road would be visible from the upper windows of surrounding properties. In these views the appearance of the access would reduce the general sense of greenery that No.16 currently presents to the rear. However, the impact of the access could be reduced to an acceptable level through appropriate surfacing and screening for the access that could be secured as part of later reserved matters applications.
14. It is noted that there are a number of trees close by that contribute to the character of the area. Most of these trees sit outside of the appeal site. Given the size of the curtilage that the new dwelling would have, the positioning of it could be designed to ensure that harm to nearby trees does not result.
15. In light of the above, I conclude that the proposed development would not have a harmful effect on the character and appearance of the surrounding area. As such, I do not find conflict with policy CSP18 of the Tandridge District Core Strategy or policies DP7 and DP8 of the Tandridge District Local Plan : Part 2. These policies, taken together, includes requirements that seek to ensure that new development is designed to a high standard.
16. I note arguments from the Council about conflict with policy DP8 on the grounds that the site is not located within one of the mentioned locations. A reading of DP8 indicates to me that it serves to specify requirements that should be met in order for residential garden land development to be acceptable in the stated locations. It does not limit such development just to those locations. As such, following the Council's line of argument would serve to disapply it's requirements entirely. Is also noted that the requirements of DP8 were considered as part of previous decisions.
17. Regardless of the conclusion on whether DP8 should be applied or disregarded, the proposed development would be consistent with other policies that have been drawn to my attention relating to character and appearance, notably CSP18 and DP7. These policies, when taken together, seek to achieve similar requirements to DP8 in ensuring that development is designed to a high standard.

Living conditions

18. The new dwelling would sit in a square plot in the area furthest away from No.16. Whilst the precise location of the proposed dwelling would be determined as part of a reserved matters application, given the location, it is likely that the proposed development would create new views towards neighbouring properties. These views would be primarily from the upper floor windows of the new dwelling. This has the potential to affect the windows and garden of 7 Marshall Close, as the nearest dwelling to the proposed development, and the rear gardens of neighbouring No's 14 and 12 The Heath and properties on Fryern Road.
19. It is noted that the side wall of 7 Marshall Close does not have any upper floor windows and the rear windows of the property face towards the area that would be retained as garden for No.16. As a result of this configuration, and the size of the curtilage for the new dwelling, the proposed development could be orientated in such a way as to not result in a harmful impact on the privacy conditions of 7 Marshall Close.
20. Similarly, the size of the curtilage for the new dwelling is such that the proposed development could be located away from the shared boundaries with No.14 and the properties on Fryern Road and orientated in such a way as to ensure that the upper floor windows did not create direct and close views into gardens. It is also noted that existing trees that are close to the appeal site, but mostly outside the boundary, provide an element of screening that would further reduce the impact of the proposed development.
21. In their statement, the Council have introduced a further reason for objecting to the proposed development relating to noise and disturbance resulting from the access road having a harmful impact on living conditions of occupiers of 14 and 16 The Heath. This concern is not set out in the reasons for refusal but is raised by third parties.
22. The access that would serve the new dwelling would pass between 14 and 16 The Heath. The proposed development would therefore result in vehicular and other movement close to both properties. As No.16 would maintain access from elsewhere, such movement would be linked to activities only from the new dwelling. The width of the access and short length where it passes between 14 and 16 is such that I do not regard it as having the potential to create a tunnel effect. As such, the nature and intensity of the use of the access to the single property would not be harmful to the living conditions of 14 and 16 The Heath.
23. In light of the above, I conclude that the proposed development would not have a harmful effect on the living conditions of occupiers of properties nearby in terms of loss of privacy resulting from overlooking or noise and disturbance. As such, I do not find conflict with policy CSP18 of the Tandridge District Core Strategy or policy DP7 of the Tandridge District Local Plan : Part 2, which seeks to ensure that development does not significantly harm the amenities of the occupiers of neighbouring properties.

Other matters

24. Representations from other parties in response to the original application and this appeal are noted. Some of the representations received support the Council's reasons for refusal and are discussed above. I have taken other representations into account, including those relating to highway safety, flooding, and private property rights. These are matters which do not affect my findings on the main issues.

Conditions

25. The conditions of this permission are set out in the attached schedule. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development.
26. As the proposed development is for outline planning permission with all matters reserved, the plans submitted with it are regarded as illustrative. As such, I have not included a condition that specifies the plans that make up the permission or requires the development to be carried out in accordance with the submitted details. I have, however, imposed a condition specifying that the number of dwellings approved is limited to 1, for the avoidance of doubt.
27. I have included a condition requiring the submission and approval of surface water drainage in the interests of ensuring sufficient drainage arrangements. I have also included a condition requiring the parking and access arrangements to be set out as approved prior to occupation of the dwelling in the interests of preserving local highway conditions and the living conditions of nearby occupiers. I have included a condition requiring the submission and approval of a scheme for the provision of renewable technologies and requiring that provision is made for electric vehicle charging in the interests of securing sustainable development.
28. I have not included a condition that requires submission and approval of hard and soft landscaping as such details will be approved under 'landscaping' as part of a reserved matters application. I have, however, included a condition requiring the submission and approval of details of an Arboricultural Impact Assessment, method statement and tree protection plan in the interests of protecting nearby trees, including those outside the appeal site. I have also included a condition relating to when landscaping should be carried out in the interests of maintaining the character and appearance of the area.
29. Where they have suggested them, the conditions above mostly follow the wording set out by the Council, subject to some minor amendments to improve legibility.

Conclusion

30. For the above reasons the appeal is allowed, subject to the conditions that are set out in the attached schedule.

D.R. McCreery

INSPECTOR

Schedule of conditions

1. The development hereby permitted shall start before the expiration of 3 years from the date of this permission or 2 years from the date of approval of "the last of the reserved matters" to be approved, whichever is the later.
2. Before any development hereby permitted starts, approval of Access, Appearance, Landscaping, Layout and Scale (hereinafter called "the reserved matters") shall be obtained from the District Planning Authority. Detailed plans and particulars of the "reserved matters" shall be submitted in writing not later than 3 years from the date of this permission and shall be carried out as approved.
3. The number of dwellings hereby permitted by this planning permission shall be limited to one only.
4. The development hereby permitted shall not commence until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority.
5. No development shall be occupied until the access to the dwelling and parking spaces have been laid out within the site in accordance with a scheme approved as part of a reserved matters application. The parking/turning area shall be used and retained exclusively for its designated purpose.
6. The development hereby approved shall not be occupied until the proposed dwelling is provided with a fast charge socket for the charging of vehicles. The socket shall meet the minimum requirements of - 7kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply - unless otherwise agreed in writing by the District Planning Authority and shall be retained as such.
7. No development shall start until an Arboricultural Impact Assessment, method statement and tree protection plan [appropriate and specific to the approved scheme], to include details of all works within the root protection area, or crown spread [whichever is greater], of any retained tree, has been submitted to and agreed in writing by the District Planning Authority. Thereafter, all works shall be carried out and constructed in accordance with the approved details and shall not be varied without the written consent of the District Planning Authority.

8. All new planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion or occupation of any part of the development (whichever is the sooner) or otherwise in accordance with a programme to be agreed. Any trees or plants (including those retained as part of the development) which within a period of 5 years from the completion of the development die, are removed, or, in the opinion of the District Planning Authority, become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the District Planning Authority gives written consent to any variation. The hard landscape works shall be carried out prior to the occupation of the development.
9. No development shall start until details demonstrating how the development would satisfy the 10% reduction of carbon emissions through renewable resources have been submitted to and approved in writing by the District Planning Authority. The renewable energy provision shall thereafter be implemented and retained in accordance with the approved details.