
Appeal Decision

Site visit made on 18 February 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/L3625/W/19/3238065

Upper Hoyland/Hoyland Down, Woodland Way, Kingswood, Surrey KT20 6NW

- 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 Wesley Pearce against the decision of Reigate & Banstead Borough Council.
 - The application Ref 19/00350/F, dated 15 February 2019, was refused by notice dated 15 April 2019.
 - The development proposed is an extension to form two additional apartments with associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Reigate and Banstead Local Plan, Development Management Plan (LP) was adopted in September 2019 and now forms part of the development plan. As such, policies Ho9, Ho13 and Ho15 of the Reigate and Banstead Borough Local Plan 2005 referred to on the decision notice have now been superseded. In relation to the appeal proposal I consider that the most relevant policies in the recently adopted LP have broadly similar objectives to those replaced, and as such, there have been no fundamental changes insofar as is relevant to the circumstances of this decision. Furthermore, both parties have had an opportunity to comment on the LP as part of their appeal submission and therefore, I am satisfied that no injustice will result from the change in policy circumstances.
3. The appellant has submitted an additional plan referenced 822/EAR/22 which shows existing first floor plans and elevations for Hoyland Down/Upper Hoyland as well as the adjacent Hoyland House. This plan provides illustrative information and does not seek to revise the proposal. On that basis, I am satisfied that no parties would be prejudiced by my taking account of the plan when determining the appeal.

Main Issues

4. The main issues are the effect of the proposal on:

- The character and appearance of the area having particular regard to the protected beech tree, and;
- The living conditions of nearby residents, with particular reference to privacy and outlook.

Reasons

Character and appearance

5. Woodland Way comprises mostly of low density residential development, whereby substantial residential buildings are set within generous well landscaped grounds within a wider estate of similar built form. The considerable degree of mature tree cover and established planting contributes significantly to the distinctive leafy, spacious character of the area. This results in an attractive, well ordered verdant sub-urban character and is reflected in the wider area, Kingswood: The Warren and The Glade being designated as a Residential Area of Special Character (RASC) under policy DES3 of the LP.
6. At present two residential apartments (Upper Hoyland and Hoyland Down) are accommodated at the appeal site. These are adjacent to Hoyland House but the overall built form appears historically to have been one larger dwelling¹ set within substantial grounds. Notwithstanding the subsequent sub-division and surrounding development that has since taken place, the appeal building together with Hoyland House retains a heightened status due to its overall scale and aesthetic appearance which takes a broadly symmetrical form. This is evident in the hipped roof, generally balanced proportions and coherent detailing discernible in the front and rear elevations of the building². As such, the building makes a positive contribution to the distinctive character of the area.
7. Furthermore, the appeal site contains several mature protected trees, which due to their significant height can be seen from some distance away thereby enhancing the appearance of the area.
8. When read together with Hoyland House, the proposal to introduce a substantial, mostly two storey extension to the eastern corner of the building to provide two further apartments, would add significant bulk to the built form. The additional volume would be evident on the north west facing elevation, which appears to originally have been the principal elevation, and would further elongate the form of the building thereby adversely diminishing the symmetry and balance with Hoyland House.
9. Additionally, the extension would introduce protrusions to the east and south of the building which due to their disproportionately large size do not respect the generally north-east/south-west axis of the overall structure. This would exacerbate the bulky appearance of the addition, which consequently would have an awkward roof form that would adversely contrast with the balanced hipped roof to the main building. The elevation facing Woodland Way would significantly increase the visual mass of built form which would appear too dominant in comparison to the existing building. These concerns would not be fully overcome by the use of matching materials.

¹ Map on Tree Preservation Order covering site dated 18 December 1962 shows one property 'Avalon'.

² Drawing No.822/EAR/22

10. Moreover, the size of the addition would increase the proportion of built form relative to the plot, thereby harmfully eroding the sense of spaciousness and resulting in the dominance of the built form. The sub-division of the existing curtilage as shown on drawing 918/EAR/1002 shows comparatively small garden areas for the resulting apartments which compartmentalises the space to a size notably below, and therefore, out of keeping with that prevailing in the area.
11. Notwithstanding that the extension may not be closer to Woodland Way than the adjacent premises of Harlequin or Weavers, its position would be closer to Woodland Way than the existing building. Furthermore, it would be near to the access points which would make the harmful visual impact identified more noticeable.
12. In addition, the proposal would result in the loss of a large protected mature beech tree. The submitted tree schedule³, although prepared some time ago, nevertheless indicates that this is a category B tree using the rating recommended in '*BS5837:2012 Trees in relation to design, demolition and construction – recommendations*' (BS5837:2012). It is described as attaining an approximate height of 25m and an estimated remaining life span of over 20 years and denotes a tree of moderate quality and value. Although the more recent briefing note⁴, sets out some concerns regarding the impact of the tree, it does not suggest an amendment to the estimated remaining lifespan. Therefore, based on the evidence before me, and my own observations, there is little substantive basis to show that the tree suffers from significant structural defects as the appellant asserts.
13. I observed that the beech tree, even when not in leaf, currently makes a significant positive aesthetic contribution to the wider area. Therefore, not only would the removal of the tree itself result in harm, but its replacement by additional unsympathetic built form would exacerbate the impact as both factors would erode important characteristics intrinsic to the RASC.
14. In support of the proposal the appellant describes the design approach as a natural turning of the building to face Woodland Drive. Based on the evidence presented, there was no identification of 'Woodland Drive', and therefore, I have taken these references to mean Woodland Way, the adjacent road. Nevertheless, this reinforces my concern that such an approach fails to respect the character and orientation of the original building, which presented a side elevation to Woodland Way.
15. The appellant highlights that part of the elevation facing towards Woodland Way would have a single storey component. Nevertheless, this would not detract from the significant scale of the extension overall, nor the loss of the beech tree.
16. Reference is made to a garage that previously stood to the east of the main building. However, based on the photographs provided, that building was single storey and its appearance was commensurate with an incidental domestic building. Therefore, it was not as substantial in scale and did not have the same impact as the development before me. Hence, it carries little weight in support of the proposal.

³ David Archer Associates, Tree schedule dated 1 November 2013

⁴ Dated 31 January 2019, David Archer Associates

17. I acknowledge that protected trees may require regular management. Nevertheless, it is not shown that this would be so excessive that it would justify the removal of the tree, nor its replacement with harmful built form. Furthermore, a landscaping condition would not make the proposal acceptable in planning terms as, based on the information provided, it is not shown that a replacement tree of a suitable species and maturity could be accommodated within the site. In any event, even if a replacement tree were planted it would take a considerable time to reach a similar level of maturity and aesthetic value as the existing beech tree.
18. I am specifically referred to paragraph 5.1.1 of BS5837:2012 which gives general advice to avoid misplaced tree retention. Even so, this does not lead me to a different view in relation to the proposal before me, given the more specific category B rating of the beech tree against the BS5837:2012 standard within the tree schedule already referred to above.
19. Accordingly, I find that the development would have a harmful effect on the character and appearance of the area and would be unacceptably harmful to a protected tree. Therefore, it would be contrary to policies DES1 and DES2 of the LP which require new development, amongst other matters, to be of a high design quality that promotes and reinforces local distinctiveness. In addition, it would conflict with policy DES3 which requires new residential development to make a positive contribution to the special character of RASCs, including retaining the existing tree cover and preventing the erosion of the spacious plot due to the dominance of built form or inappropriate sub-division. Furthermore, the development would be inconsistent with policy NHE3 of the LP which, amongst other matters, generally seeks to retain protected trees stipulating that development resulting in the loss of, or the deterioration in the quality of, a protected tree will be refused unless the need for, and benefits of development in that location clearly outweigh the loss.

Living conditions of nearby residents

20. A considerable number of upper floor windows serving principal rooms are shown in the south west facing return elevation of the extension⁵. The orientation and proximity of the upper floor windows would allow for some views of the rear garden of Hoyland House as well as the retained garden for Hoyland Down. The presence and height of this number of upper floor windows directly facing towards the rear gardens of these properties would diminish the adjacent occupiers' enjoyment of the more private areas of their garden to an unreasonable degree.
21. Although I acknowledge that the glazed gable may not include a second floor, the perception of overlooking would remain, in addition to actual overlooking from other upper floor windows within the elevation.
22. Reference is made to the size of the garden serving Hoyland House. Nevertheless, significant overlooking, from the windows identified above, would result to the area of garden and patio near to the rear of Hoyland House which is where more intensive use of the rear garden and sitting out would naturally take place. As such, overlooking that would be intrusive to the privacy of the occupants of Hoyland House is likely to occur, despite the wider grounds available to them.

⁵ Drawing number 918/EAR/1004

23. Moreover, the windows serving bedroom 3 of the proposed upper floor apartment would be able to directly overlook the balcony for Upper Hoyland⁶. This would result in a degree of overlooking which would be likely to materially diminish the adjacent occupiers' enjoyment of their property.
24. Although the Council also refers to a dominant and overbearing impact to the occupants of Hoyland House, given the separation distance retained to the boundary, the proposal would be unlikely to give rise to additional harm other than that already identified.
25. Accordingly, I find that the proposal would result in an unreasonable level of overlooking to the rear gardens and balconies of adjoining residences, thereby unacceptably affecting the living conditions of the respective occupiers. Therefore, the proposal would be contrary to policy DES1 of the LP, that amongst other matters, requires new development to provide an appropriate environment for future occupants whilst not adversely impacting upon the amenity of occupants of existing nearby buildings, including by way of overlooking and loss of privacy. Furthermore, it would conflict with policy DES2 of the LP which sets out criteria for development of residential garden land. This includes a criterion that proposals demonstrate that they have been carefully designed to ensure a good standard of amenity for all existing and future occupants.

Planning balance and Conclusion

26. The proposal would provide an additional 2 apartments to the overall housing supply which is likely to diversify the choice of housing stock in the area. However, in light of the relatively modest addition, the benefit accrued would be relatively small and is therefore, of limited weight.
27. The appellant further indicates that sufficient space is provided for access and parking. However, the absence of harm in this regard does not count positively in favour of the proposal but is rather, a neutral factor.
28. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise⁷. The benefits the proposal would bring do not outweigh the significant weight given to the conflict with the development plan policy to protect the character and appearance of the RASC and the living conditions of nearby residents. It follows that no compelling reasons have been shown to justify my determining the development other than in accordance with the adopted development plan.
29. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁶ Drawing number 918/EAR/1003

⁷ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.