



Appeal Decision

Site visit made on 25 February 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd April 2020

Appeal Ref: APP/M3645/W/19/3241529

Lunteren, 43 Alexandra Road, Warlingham CR6 9DW

- 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 Ms Kate Smith against the decision of Tandridge District Council.
 - The application Ref TA/2019/988, dated 30 May 2019, was refused by notice dated 27 September 2019.
 - The development proposed is the erection of a detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's decision notice refers to the plans which it considered in its determination of the planning application. Specifically, it refers to drawing 43ARP3(B). The appellant states that drawing 43ARP3 was submitted with the application and was subsequently amended by drawing 43ARP3(C).
3. I have considered drawing 43ARP3(C) and am satisfied that, taking into account the principles established under *Wheatcroft*¹, that the drawing does not change the development to such a degree that to consider it would deprive those who should have been consulted on any changes, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application and the amended drawing.

Main Issues

4. The main issues are the effect of the development on 1) the character and appearance of the area and 2) the living conditions of adjoining occupiers with particular regard to overlooking and the living conditions of future occupiers with particular regard to private garden space and 3) whether the development would achieve 10% reduction in carbon emissions.

Reasons

Character and Appearance

5. The appeal site forms part of the side garden area of the host property which is located within a predominantly residential area that comprises mainly semi-detached and terraced dwellings that are arranged in a linear manner that face onto the road. The proposal seeks to sub-divide the garden and erect a

¹ *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

detached dwelling that would be accessed via Albert Road to the south of the site. The dwelling would be sited so that it would align with the host property and a fence would be erected along its northern boundary to create a pedestrian access to the rear of the host property. The entrance of the appeal site would be given over to a vehicular access and parking areas with a garden area to the side and rear of the proposed dwelling.

6. While I acknowledge that the area mainly comprises semi-detached and terraced dwellings, I do not find that the erection of a detached dwelling itself would be particularly out of place on the site. There are other examples of detached dwellings in the vicinity, such as that at 33 Alexandra Road (No.33), which lies adjacent to the appeal site. Moreover, as a parcel of land that is used as a garden area to an existing dwelling, I am not persuaded that the appeal site makes a valuable contribution to the locality.
7. The overall scale and bulk of the proposal would allow the retention of land about the dwelling and although some of this would be given over to parking and turning areas, adequate areas of garden space would be retained to the side and rear of the dwelling for the enjoyment of future occupiers. However, although the proposed dwelling would be positioned in line with the host property, as a result of the garden to No. 33 extending across the front of the appeal site, the proposed dwelling would be effectively sited behind No. 33. It would also be sited to the rear of properties that face onto Albert Road to the south east of the site.
8. I am not persuaded by the appellant's argument that the area lacks any cohesive character. Although there are examples of differing size and style of dwelling, the layout of development in the area has a pleasing sense of uniformity and rhythm. Therefore, notwithstanding that the proposal would be provided with an adequate garden area, the layout of the dwelling behind existing properties represents an uncharacteristic, contrived and discordant form of development that fails to accord with the largely uniform character that exists in the area and would be out of keeping with the prevailing frontage type development in the vicinity. Moreover, notwithstanding that the site is essentially shielded from public views by existing landscaping, the proposal would still be visible from surrounding properties and in particular, from No.33 where the landscaping on the boundary was not particularly verdant and allowed views into the adjoining garden area and property.
9. Thus, the development would result in material harm to the character and appearance of the area. It would be in conflict with Policy CSP18 of the Tandridge District Council Core Strategy 2008 (the Core Strategy) and Policies DP7 and DP8 of the Tandridge District Council Local Plan Part 2: Detailed Policies 2014 (the Local Plan) which seek, amongst other things, that developments respect the character, setting and local context of an area and contribute towards local distinctiveness.

Living Conditions

10. The proposed dwelling would be sited some 4.5m from the rear boundary of No. 33 and the Council calculate that the proposed dwelling would be some 13m from its rear elevation, which is not disputed by the appellant. Therefore, the development would be in conflict with Policy DP7 of the Local Plan which seeks a minimum of 14m between principal windows of existing dwellings and

the walls of new buildings without windows and 22m where habitable rooms of properties would be in direct alignment.

11. The property at No. 33 was granted planning permission in June 2018 for a side extension which the appellant has provided details of. Although the extension at No. 33 has yet to be constructed, the approved plans indicate a bathroom and a walk-in wardrobe would be to the rear which are not considered to be habitable rooms. Nevertheless, the existing property at No. 33 contains windows that serve bedrooms and a dining room which would be potentially overlooked by the development, as well as its rear garden area.
12. In order to overcome the potential overlooking issue, the first floor rear elevation has been designed so that the windows that would serve two bedrooms would be essentially a triangular oriel with the pane that would face onto No. 33 obscured to prevent overlooking. However, notwithstanding this arrangement, it would still be possible to view the rear garden area of No. 33 through the unobscured pane. In addition, although the rear elevation of No. 33 would be at an oblique angle to the proposed dwelling, there would still be a semblance of overlooking to its living areas as a result of the closeness of the development to its shared boundary.
13. Moreover, as a result of the intervening landscaping and the orientation of neighbouring properties, I am not persuaded that the rear and side garden area of No. 33 is currently overlooked by adjoining properties to the degree expressed by the appellant. Nevertheless, the proposal would be sited very close to the rear garden of No.33 and despite the angle of windows, users of the proposed bedrooms would still be able to look into the neighbour's garden, which would make it a significantly less pleasant space for its occupiers to enjoy.
14. Turning to the size of the private garden area to be provided for the proposed dwelling, I have found this to be acceptable for the reasons given above.
15. Thus, the development would result in material harm to the living conditions of adjoining occupiers. It would be in conflict with Policy CSP18 of the Core Strategy and Policies DP7 and DP8 of the Local Plan which seek, amongst other things, that developments do not significantly harm the amenities of the occupiers of adjoining properties.

Carbon Emissions

16. The Council considers that in order to comply with Policy CSP14 of the Core Strategy the development would need to demonstrate that it could achieve a 10% minimum reduction in CO2 emissions. The appellant argues that this particular matter could be resolved through a suitably worded condition attached to any planning permission granted for the proposed development. The Council has responded by stating that a pre-commencement condition, similar to the one it has suggested, could indeed resolve this particular matter.
17. I have considered the suggested condition in accordance with the National Planning Policy Framework and the national Planning Practice Guidance and am satisfied that had I found the proposal otherwise acceptable, its imposition would have overcome the Council's reason for refusal and would have sought a minimum reduction in carbon emissions. Thus, the development would not

have been in conflict with Policy CSP14 of the Core Strategy, the requirements of which are specified above.

Other Matters

18. I acknowledge that the principle of the development and the design of the dwelling is acceptable. I also accept that landscaping to the boundaries could be retained as part of the development which also represents a small windfall site that could be built-out quickly. While noting the benefits that would result in this respect, I do not consider that either individually or cumulatively they outweigh the harm identified above.
19. I also note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Conclusion

20. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR