
Appeal Decision

Site visit made on 22 August 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2020

Appeal Ref: APP/L3625/W/19/3230885

**25 The Spinney & Land at Rear of 133 - 151 Great Tattenhams &
2 Merland Rise, Epsom, Surrey KT18 5QX**

- 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 Mark Hendy of Shanly Homes Limited against the decision of Reigate & Banstead Borough Council.
 - The application Ref 19/00227/F, dated 31 January 2019, was refused by notice dated 21 May 2019.
 - The development proposed is redevelopment to provide 11 no. dwellings with associated landscaping, vehicular access and parking
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used a different address in my banner heading from that used on the application form, as it better describes the site. This was the address used on the Council's decision notice and on the appeal form.
3. In September 2019, the Council adopted the Reigate & Banstead Local Plan Development Management Plan, 2019, (DMP). This replaced the Reigate and Banstead Local Plan (2005) and its Policies Ho9, Ho13, Ho14 and Pc4, which were referred to in the Council's decision notice, have played no part in my decision. Policies DES1, DES2, DES5, DES6 and NHE3 from the DMP are relevant to my decision. The parties were consulted on this change and have had an opportunity to comment on the new policies.
4. Revised plans were submitted with the appeal showing minor changes to the designs of Plots 2-10, the revised siting and deletion of car barns and the location of additional tree planting. As the changes fall within the original description of development and the Council has had an opportunity to comment on them, I have taken them into account in reaching my decision. Doing so would not prejudice any party.
5. At my site visit, I viewed the site from a number of properties within the appeal site and was asked by two third parties to visit their properties and assess the proposal from them. I was unable to gain access to one of these, 4 Merland Rise, and it was agreed that the third party could submit photographs of the site. This was done and the photographs, which were not annotated, were forwarded to the Council and appellant for information. As they show what I

would have seen, had I gained access to the property, they do not prejudice either main party and I have taken them into account.

Main Issue

6. The main issue is the effect of the proposed development on the character and appearance of the area, including its effect on a protected tree.

Reasons

7. The appeal site consists in part of No. 25 The Spinney, with the bulk of the site being formed from the parts of the extremely long gardens to properties in Great Tattenhams and one in Merland Rise. In the main, the latter are well-used at their lower levels close to the dwellings but less so at their upper levels where some had trees and thick undergrowth.
8. The Spinney is lined by semi-detached and detached properties. Whilst there are some differences in their designs, they share unifying features such as being set back from the road behind front gardens, accommodation over two floors and are all set within generous plots with very good-sized rear gardens. Residential development on Great Tattenhams and Merland Rise consists of semi-detached dwellings with extremely long rear gardens that run uphill to abut those in The Spinney.
9. It is proposed to demolish the dwelling at No.25. A new dwelling would be erected here, (Plot 1), together with the creation of a new access road running rearwards to the bulk of the site where the other 10 dwellings would be erected.
10. Both parties agree that the provision of new housing within the borough's built-up area is supported in principle in local and national planning policy. DMP Policy DES1 provides detailed guidance on the design of new development. Amongst its terms, it requires proposals to have due regard to local distinctiveness, including the density, plot sizes and massing of nearby development. Its aims are reflected in DMP Policy DES2, which relates to residential garden land development, and the Council's Supplementary Planning Guidance document, Reigate and Banstead Local Distinctiveness Guide, March 2004, (SPG).
11. In order to accommodate the access road, the house on Plot 1 would be noticeably narrower than others on The Spinney. Although many properties in the vicinity of the appeal site are built close to, or even up to, their side boundaries, their greater width and good-sized front gardens contribute to a spacious street scene. The narrow dwelling proposed on Plot 1 would be built very close to its boundaries and would have a markedly smaller front garden. Although its rear garden would have a length that would be similar to those at Nos 27 and 29 The Spinney, it would lack their width and generosity. It would have a cramped appearance that would be at odds with the generous nature of other properties in the vicinity. Notwithstanding that it would follow the building line, this dwelling would be obtrusive in the street scene and this would not be ameliorated by the provision of planting along the side of the proposed access road.
12. In reaching this position, I have taken the photographs of other similar arrangements in the area, supplied by the appellant, into account. I have also taken into account that the position of the new dwelling would allow views to

- the rear of The Spinney. However, I find that the dwelling proposed on Plot 1 would cause significant harm to the character and appearance of the streetscape of The Spinney.
13. The contribution that generous gardens make to the character and appearance of the area cannot be underestimated. The proposed development would lead to the retention of good-sized gardens for the donor properties in Great Tattenhams and Merland Rise, which would accord with the area's overall spacious quality. However, in order to accommodate the 10 dwellings proposed to the rear of these properties, Plots 4-6 and 8 and 10 would have gardens that would be considerably smaller than others in the area. Although they might provide sufficient space for their users, these small gardens would result in cramped development that would be out of keeping with and harmful to the character and appearance of the area.
 14. Whilst the form of development proposed might accord with other similar forms in the area, and that the appearance of the dwellings on Plots 2-11 would be appropriate, the number of houses proposed, their overall massing and the extensive area of access road and parking areas would result in a scheme where built development would dominate its open space. This would be fundamentally at odds with, and harmful to, the prevailing spaciousness of the area. The manner in which the blocks of buildings would be set apart from one another would not mitigate this.
 15. Although the site is not located within a conservation area or covered by another townscape designation, it is nonetheless part of a pleasant and attractive area. It is important that development here protects the overriding character and appearance and, for the above reasons, the scheme fails to reinforce local distinctiveness and is thus contrary to the terms of DMP Policies DES1 and DES2.
 16. I am told that the site sits within Garlichill Larches, which is described as "historic woods". However, I have not been provided with any substantive information on this. Six trees in and near the site are protected by Tree Preservation Order RE1479 (TPO). Several tall pine trees, including an Austrian Pine covered by the TPO (labelled T4), are seen from The Spinney, above the houses in this road. They are an important part of the streetscape and add greatly to the area's appearance. Some of the other trees and vegetation on the site are glimpsed between houses on The Spinney and add to the area's verdant qualities.
 17. It is proposed to remove tree T4 to accommodate the access road. A number of trees not covered by the TPO, together with other vegetation, would be removed to make space for the residential development on Plots 2-11. These latter trees and vegetation could be removed without consent.
 18. Notwithstanding this latter point, the loss of the trees resulting from the proposal would cause harm to the area's character and appearance and would be regrettable. DMP Policy NHE3 relates to the protection of trees, woodland areas and natural habitats. Amongst its terms, it sets out that where the loss of protected trees and those that are unprotected but of importance is allowed, this should be subject to compensatory provision commensurate to those that are lost. Here, from the evidence before me I find that the scheme would not allow for the provision of landscaping that would mitigate the harm I have identified.

19. I therefore find on this main issue that the proposed development would have an adverse effect on the character and appearance of the area. For the above reasons, the proposal would be contrary to the terms of DMP Policies DES1, DES2 and NHE3 and the terms of the SPG.

Other Matters

20. DMP Policy DES6 relates to the provision of affordable housing in development proposals and sets out the importance of providing this. Amongst its terms, it states that where developments propose 11 or more homes, 30% of the homes on the site should be affordable housing. However, it goes on to say that in exceptional circumstances, the Council may accept affordable housing provided on an alternative site or as a payment in lieu. A unilateral undertaking (UU) that made provision for a financial contribution towards affordable housing in the borough, described by the Council as satisfying its requirements, was submitted by the appellant. In its most recent comments, following the introduction of the DMP, whilst the Council drew attention to the terms of its Policy DES6 it did not object to the use of the UU. I therefore take it that it agrees that there are exceptional circumstances here. Although the financial contribution is an important factor in support of the proposed development, it does not outweigh the significant harm to character and appearance that I have identified.
21. That the development would be undertaken in a single phase, thus providing housing without undue delay; that the dwellings would meet the Government's 'Technical housing standards – nationally described space standard' (2015), and accord with the terms of DMP Policy DES5, which requires the provision of high quality homes; and that a management company would be set up to undertake on-going maintenance of landscaping on the site have been taken into account. However, these do not outweigh the harm that I have identified.
22. I am aware of the relatively large number of objections that were raised locally. Most of the points made chimed with the Council's reasons for refusal and have been addressed, however some did not.
23. A number of comments were made with regards to highway safety, design of the proposed access, parking provision and the effects of the development on roadside verges. I note that, in the light of the views of the County Highway Authority, the Council did not raise any objections with regards to highways matters. The comments made by third parties have not provided evidence to justify finding otherwise on these matters.
24. I find similarly with regards to the reported loss of wildlife on the site and inadequacies in the utilities' infrastructure serving the area as, again, I have not been provided with substantive evidence to refuse permission on these grounds.
25. The Council did not find that there would be harm to the living conditions of the occupants of neighbouring dwellings through overlooking, loss of privacy or overbearing effects. From the evidence before me, and from what I saw at my site visit, I agree with its findings.
26. The external finishes to be applied to the buildings could be controlled through the use of conditions.

Conclusion

27. For the above reasons, and having taken all other matters into account, the appeal is dismissed.

Roy Curnow

INSPECTOR