
Appeal Decision

Site visit made on 11 March 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2020

Appeal Ref: APP/L3625/W/19/3241824

16 Downs Wood Road, Epsom Downs, Epsom, Surrey KT18 5UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Quarterhill Homes Limited against Reigate & Banstead Borough Council.
 - The application Ref 19/01238/F/AP is dated 13 June 2019.
 - The development proposed is the demolition of 16 Downs Wood and the erection of 8 dwellings on land to the rear, with associated landscaping and car parking.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Two applications have previously been refused and dismissed on appeal for backland development on much of the current appeal site¹. These appeal decisions are material considerations, but the current proposal nonetheless needs to be considered on its individual planning merits having regard to current planning policies.
3. The Reigate and Banstead Local Plan Development Management Plan (DMP) was adopted in September 2019 shortly before submission of the appeal. The policies in the DMP are up to date and consistent with the National Planning Policy Framework (the Framework). They are therefore afforded full weight.

Main Issues

4. The main issues are:
 - (a) the effect of the development on the character and appearance of the area in relation to the massing of the dwellings and gaps between them,
 - (b) the impact of the development on the living conditions of the occupiers of adjoining dwellings,
 - (c) the adequacy of the off street parking arrangements,
 - (d) the planning policy requirement for a proportion of smaller homes and
 - (e) biodiversity and ecological considerations.

¹ Application Ref 02/02016/F and Appeal Ref APP/L3625/A/03/1108492 – 5 dwellings r/o nos. 37-45 YTB
Application Ref 16/02031/F and Appeal Ref APP/L3625/W/17/3167463 – 12 dwellings r/o nos. 35-47 YTB

Reasons

Character and appearance

5. The appeal site comprises the curtilage of 16 Downs Wood and the rearmost parts of gardens to 37-47 Yew Tree Bottom. It comprises lawns with many trees and shrubs, particularly to garden boundaries. Land levels rise to the west. The surrounding area is residential in character but mixed in form. Large detached houses predominate but there are also detached bungalows. The dwellings in Downs Wood tend to be smaller than those in Yew Tree Bottom. Most dwellings front established roads, but the wider area is punctuated by infill dwellings on backland plots. The size and design of the dwellings surrounding the appeal site vary but all have reasonably sized front gardens. The area has a leafy spacious character arising from the established landscaping and views between dwellings to vegetation in back gardens.
6. The appellant's design and access statement informs the approach taken in the proposal to address current planning policies, criticisms of previous schemes dismissed at appeal and comments made in a pre-application submission. The proposal would comprise only detached dwellings reflecting the primary built form of the area and would have fewer dwellings and larger rear garden areas compared with the most recent appeal scheme, better respecting the low density character of the area. It would also retain the curved access road previously considered acceptable in the last appeal but not have tandem parking in the gaps between houses that was criticised as visual separation between buildings could not effectively be mitigated by landscaping.
7. Whilst the number of dwellings now proposed has reduced, their size and depth has increased. The previous scheme had many catslide roofs with a low eaves' height to part of each dwelling which reduced the effect of massing above ground floor level. The houses now proposed would be more closely sited with regular but smaller gaps at first floor level. This would result in a relatively cramped form of development compared with the varied and more spacious pattern of development in the surrounding area. The houses would be narrower but deeper than many nearby dwellings and would have a greater mass than those previously proposed. All would have loft rooms with 4 having crown roofs, a profile not characteristic of the area. The dominance of hard surfaces and parking areas to the front of the houses would not compare favourably with the more spacious and landscaped arrangements for parking to dwellings in Downs Wood and neighbouring roads.
8. A further layout consideration arises from uncertainty on arrangements for refuse collection. The access road would have a minimum width of 4.6m and has been designed to adoptable standards so that a refuse vehicle could readily collect from the houses. But the Council's refuse collection service state they would not collect bins from the houses and that these would need to be presented at the kerbside in Downs Wood. This would be unwieldy for future residents, especially for those at Plots 1-3, with long dragging or carrying distances. Kerbside collection space for bins is not shown on the submitted plans but could be made from the indicated landscape strips to either side of the access. The appellant has submitted an amended plan indicating such collection areas but in the interests of fairness, I am not able to accept this plan. The Council and residents would need to be afforded opportunity to comment on the adequacy of the size and position of the collection areas, their

impact on the amenities of occupiers of 14 and 18 Downs Wood either side of the access, and on the degree to which the amenity value of the landscaped strips as presently portrayed would be undermined by provision of these areas. The Council has suggested a planning condition to cover refuse collection arrangements, but this would not remove the present uncertainty from where refuse collection would be made, a matter of concern to several residents.

9. In all these matters, the proposal would not respect the more spacious pattern of development in the immediate vicinity and would be harmful to the character and appearance of the area. The proposal would thereby conflict with Policies DES1 and DES2 of the DMP in relation to design and garden land development which expects new development to be of a high quality design that makes a positive contribution to the character and appearance of its surroundings including in relation to layout, massing and spacing between buildings. The site falls within the 1930s-1950s Suburbia Character Area of the Reigate and Banstead Local Distinctiveness Design Guide (2004). The proposal would conflict with the stated design considerations which stipulate that new infill development should not provide parking or garaging which dominates the street frontage and that visual separation between dwellings should be retained.
10. The Framework at Paragraph 117 promotes "*an effective use of land in meeting the need for homes and other uses*". The provision of additional homes to help the general need for housing would be a benefit arising from the proposal. But Paragraph 117 states that the effective use of land should be "*while safeguarding and improving the environment and ensuring safe and healthy living conditions*".

Living conditions

11. The rear of the houses on plots 1, 2 and 3 would face towards the flank wall and gardens to 3 Kenmore Close. This is a similar arrangement to the scheme on the previous appeal. The Inspector considered that the higher siting of the house at 3 Kenmore Close plus planning conditions on boundary treatment and landscaping would overcome concerns here relating to overlooking and privacy.
12. There would be a more favourable relationship in the current proposal in that the number of dwellings facing no.3 has been reduced from 4 to 3 and garden depths have been increased by approximately 2m. The overall number of rear facing windows would be similar to that of the previous scheme, but the current proposal includes two rear dormer windows which would be at a higher level. Notwithstanding this, given a separation of about 13m to the boundary from the dormers, and greater distances to the house and gardens at 3 Kenmore Close, a material loss of privacy should not result. The main habitable room windows at no.3 are positioned to the front and rear, so there would not be an undue impact on living conditions.
13. Local residents have objected in respect of other relationships with the proposed houses. The front of the houses at Plots 4-8 and the flank of the house on Plot 1 would face the rear of houses in Downs Wood. Separation distances would vary but I concur with the Council that the proposed houses would not be so close as to result in material harm by way of overlooking, loss of light or through an overbearing impact. Furthermore, there would be opportunity for some mitigation of impact through boundary planting.

14. There would be comparable separation distances to the donor and adjacent properties in Yew Tree Bottom, sufficient to not adversely impact on living conditions within these houses. However, the eastern flank wall of the house on Plot 8 would be only about 1m from the side boundary to the rear garden at 35 Yew Tree Bottom. The mass and proximity of the flank wall and roof to the house on Plot 8 would have an overbearing impact on the garden and would overshadow a summerhouse during late afternoon hours. The Council's statement notes that the garden at no.35 is used in its entirety, notwithstanding its length of some 60m.
15. A planning condition could require secondary windows in the flank wall to be obscured glazed, and a boundary fence could also restrict views from ground floor flank windows. But the clear glazed first floor front and rear bedroom windows, only about 2.5m from the boundary, would overlook much of the length of the garden to no.35 from a relatively close position. Whilst the most private aspect of a rear garden is often the area immediately abutting the house, and this would be relatively unaffected, the house on Plot 8 would impose a relationship on an existing occupier which is not commonplace in the area and which would have a significant adverse effect on the amenity value of much of the garden to no.35. The proposal would be contrary to Policies DES1 and DES2 of the DMP which require proposals to ensure a good standard of amenity for all existing and future occupants.

Parking

16. The site has a low accessibility rating in relation to the parking requirements of Policy TAP1 of the DMP. A minimum of 2.5 parking spaces are required for the proposed dwelling plus 2 visitor parking spaces resulting in 22 spaces in total. The Council reason that there would only be 18 spaces provided and consider that the two double garages would only be suitable for a single space, indicating an overall on-site shortage of parking spaces.
17. The appellant's Transport Statement clearly shows that the proposal was designed with the requirements of Policy TAP1 in mind with each dwelling provided with one garage space and two external parking spaces. The 'A' house types would share a double garage whilst the 'B' house types would all have an integral single garage. Both spaces within the double garages are shown to be 6m in length and 3.25m in width. I am satisfied that the double garages would be large enough for 2 parking spaces and that the integral garages would be adequate for parking 1 car. There would be sufficient on-site parking provision and the proposal would be in accordance with Policy TAP1.

Smaller homes

18. Policy DES4 of the DMP states on sites such as this outside of town and local centres that for proposals of up to 20 homes, at least 20% of market housing should be provided as smaller (one and two bedroom) homes. Supporting text to the policy explains this is to help meet the need for smaller family housing (including as part of infill and residential garden developments where larger housing normally prevails). The appeal site is within an area with a character of larger homes. The 8 houses proposed would all have either 4 or 5 bedrooms. Their large size would accord with the prevailing character of the area, but the absence of any smaller homes would be at variance with the aims of Policy DES4.

19. The appellant has referred to a caveat to Policy DES4 which states that the requirements should be followed unless it can be demonstrated "*that doing so would have an adverse impact on the character of the surrounding area*". The Inspector on the previous appeal commented that the semi-detached dwellings then proposed would add to a feeling of density and "*not fully reflect the building form of the vicinity*". But the semi-detached houses then proposed were all large family dwellings. The combined mass of each of the two joined dwellings would have appeared larger than the form of most single detached dwellings in the area. It has not been demonstrated that it would not be possible to design a building that would reflect the form of buildings in the area and yet provide the smaller unit accommodation sought by the policy.
20. Policy DES4 has been recently adopted. It is up to date and in accordance with the Framework. The aspiration for a proportion of dwellings at the site to be of a smaller size to meet locally identified need attracts significant weight. There is variation in the size of dwellings in Downs Wood and adjacent roads from bungalows to substantial detached houses. It has not been demonstrated that inclusion of a proportion of small home to accord with the policy would necessarily have an adverse impact on the character of the surrounding area. The omission of such a proportion has not been justified. The proposal would conflict with Policy DE4.

Biodiversity

21. The site is not subject to any designation to indicate a particular importance for nature conservation interests, but it does contain many trees and shrubs, most of which would be lost as a result of the development. Policy NHE2 of the DMP expects in such locations without a particular designation that development proposals be designed, wherever possible, to achieve a net gain in biodiversity. A bat survey has been provided but the proposal does not otherwise include analysis of present biodiversity interests, nor measures for biodiversity enhancement.
22. Such measures may not have been referred to in the previous appeals at the site, nor in pre-application dialogue, but they are nonetheless subject to a recently adopted development plan policy and therefore their provision attracts weight. But given the overall size of the site and opportunities for planting within gardens and on landscape strips with provision for bat and nest boxes should these be considered appropriate, identification of suitable measures for enhancement of biodiversity could reasonably be deferred to discharge of a planning condition. Had I been minded to allow the appeal in respect of other main issues, I would have imposed a suitably worded planning condition to enable the expectations of Policy NHE2 to be met.

Conclusion

23. The proposal would result in harm in conflict with DMP policies in respect of its effect on the character and appearance of the area, its impact on the living conditions of the occupiers of an adjoining dwelling and in the requirement for a proportion of smaller homes. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR