
Appeal Decision

Site visit made on 26 February 2020

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2020

Appeal Ref: APP/L3625/W/19/3241710
38 Fir Tree Road, Banstead SM7 1NG

- 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 Tahir against the decision of Reigate & Banstead Borough Council.
 - The application Ref 19/00314/F, dated 11 February 2019, was refused by notice dated 25 September 2019.
 - The development proposed is replacement of existing building C3 dwelling house to allow for five C3 residential flats.
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Decision

1. The appeal is allowed and planning permission is granted for the replacement of existing building C3 dwelling house to allow for five C3 residential flats at 38 Fir Tree Road, Banstead SM7 1NG in accordance with the terms of the application, Ref 19/00314/F, dated 11 February 2019, subject to the conditions provided in the schedule attached to this decision.

Procedural Matters

2. The description in the header above is taken from the Council's decision notice, although I have slightly amended it. It accurately reflects the development proposed.
3. The Council adopted the Reigate & Banstead Local Plan Development Management Plan (2019) (DMP) after the planning application was refused, and therefore I have assessed this appeal against the new DMP.

Main Issues

4. The main issues are the effect of the appeal development upon:
 - the character and appearance of the area;
 - neighbours living conditions; and
 - highway safety and on-site car parking provision.

Reasons

Character and appearance

5. The appeal site contains a two-storey detached dwelling set back from the road, with a single storey side garage and rear addition. A crescent shaped driveway provides vehicular access. A low hedge defines much of the front

boundary by the road and a hedge and mature tree are located at the front of the appeal site by No 36 Fir Tree Road (No 36). The southern side of Fir Tree Road is characterised by large detached dwellings, set back from the road in spacious plots.

6. The proposed building would lie parallel to the road, similar to the existing house. The frontage of No 40 Fir Tree Road (No 40) is angled slightly away from the appeal site, which would make the proposed building's increased mass and scale more noticeable from the street, when compared with existing. The appeal development is considerably larger than the existing house on site, however it would not be dissimilar in bulk, scale, massing or appearance to the newly constructed neighbouring block of flats at No 40. Also, the set back of the proposed development from the road, use of a mixture of materials on the walls and contrasting roof levels would help to assist in breaking up the proposed building's mass and would avoid it from appearing incongruous along the street. Vegetation proposed by the front boundary by No 40 would also help to soften this boundary when viewed from the street.
7. There would be a reduction in the first floor gap between the proposed block of flats and No 40, which would be most apparent when viewed from the street. The proposed gap between these buildings would be widest at the front and would reduce towards the rear and at their closest, would be around 3.2m apart. This sized gap is not uncommon along the road, with other properties having smaller gaps between them. I also consider the gap between the proposed development and No 36 would be acceptable, as a generous gap would be retained at first floor level. There are a range of spacings between buildings along Fir Tree Road, and I consider the proposed spacings would be consistent with the character of the street.
8. I understand that No 40 has historically occupied a larger footprint and has previously been in multiple occupancy. I accept that the appeal site does differ in that it presently contains a smaller dwelling compared with No 40. However, the proposed addition of a further block of flats would not in itself alter the prevailing character of the road, which would remain predominantly characterised by large detached family dwellings. The site is also a suitable size to accommodate the five proposed flats and therefore I do not consider the proposal would constitute overdevelopment.
9. The proposal would result in the loss of the original style and design of the existing building. However, I have no evidence that it is of any particular architectural or historic merit, I therefore consider this loss to be acceptable.
10. The proposed building would sit lower than the existing property on site, however the neighbouring property of No 40 sits lower than its front hardstanding area. Given this context, it would not look out of place in the street-scene.
11. Alterations are proposed to the front garden, with the removal of one of the vehicular access points and hardstanding proposed across much of the front of the site. Six car parking spaces are proposed along with the bin store. Much of the front garden is already hardstanding, although I understand in the past there was a larger grassed area and a pond. That said, there is currently hedging at the front of the site and the proposal would add further vegetation by the boundaries and in front of the block of flats which would mitigate its impact. The appeal side of the street is characterised by mature hedges and

vegetation by the front and side boundaries with car parking occupying much of the front garden space so the proposal would be in keeping with the overall character of the area.

12. Limited rear amenity space was cited within the reason for refusal, however the Committee Report found the rear amenity space to be acceptable and this was not expanded upon in the Council's Appeal Statement. The proposal includes two small private gardens for the ground floor flats and the existing garden would remain beyond. I understand from the Committee Report that the proposed outdoor garden space would be similar to what was approved at No 40. Overall, I consider there would be sufficient outdoor garden space for the proposed flats and the extent of the rear garden area would not be out of character with its surroundings.
13. Accordingly, I find the development would not harm the character and appearance of the area and would comply with the Reigate & Banstead Local Plan Development Management Plan (2019) Policies DES1, DES2 and DES5 which seek amongst other things, that all new development will be expected to be of a high quality design that makes a positive contribution to the character and appearance of its surroundings.

Living conditions

14. Interested parties have raised concerns with respect to the impact of the proposal upon the living conditions of neighbours, with reference to loss of privacy, outlook and overshadowing.
15. The proposed block of flats would include flank windows and rooflights that would serve kitchens, bathrooms and bedrooms. Overlooking of the nearest neighbours from these upper floor flank windows could be overcome through a condition in respect of glazing. The rear upper floor windows of the proposed flats would afford views over the neighbouring gardens, however this would be similar to the existing situation. Furthermore, the distance between the proposed building and the property directly to the rear would be sufficient to prevent, this neighbour from experiencing an unreasonable loss of privacy.
16. According to the Committee Report, the Council found that satisfactory 45 degree line assessments were carried out for the relevant windows at No 36 and 40. The combination of the position of the windows at these neighbouring buildings, along with the proposed set back of the proposal from the side boundaries would avoid it from causing significant harm to neighbours living conditions with respect to overshadowing and outlook.
17. Interested parties have also raised concerns in respect of health and noise especially during the construction phase. However, whilst I acknowledge that construction of buildings can be a nuisance for neighbours, such situations are temporary and can be mitigated by methods of construction management. Concerns have also been raised in respect of increased pollution from additional vehicle movements but the proposal is of a small scale and would not lead to a significant rise in noise or air pollution.
18. Consequently, the appeal development would not significantly harm neighbours living conditions and would comply with the Reigate & Banstead Local Plan Development Management Plan (2019) Policies DES1, DES8 and DES9 which

seeks amongst other things that new development does not adversely impact upon the amenity of occupants of existing nearby buildings.

Highway safety and car parking

19. There have been a significant number of comments from interested parties relating to highway safety and on-site car parking provision.
20. The proposed on-site car parking provision has been compared with a similar development at No 40, which provides a higher number of car parking spaces. Some interested parties have raised that residents at No 40, use street parking as they have insufficient on-site car parking provision. Concerns have also been raised that future occupiers could have more than one vehicle per household. I acknowledge there are significant car parking pressures on nearby streets close to the appeal development and that interested parties have raised that cars are not always parked safely due to the lack of suitable street parking.
21. However, the Council has referred to the site as being within a medium accessible location, which is consistent with the DMP. According to the DMP one car parking space is required for each 2 bedroom flat, along with 1 visitor car parking space. The proposal meets this requirement. Furthermore, the site is close to rail and bus services, which would provide alternative options to reach several locations. A condition could ensure adequate on-site bike parking is provided for the proposed flats, which would offer a further alternative to private vehicle usage. Whilst I note comments that the flats might be altered internally to increase the number of bedrooms, I have no real evidence that this is likely to occur. Therefore, the proposal is highly unlikely to give rise to an unacceptable increase in on-street parking.
22. Interested parties have raised concerns over construction works, particularly with respect to highway safety. Concerns during the construction works at No 40 were also detailed. Construction works would be managed through a planning condition, which would cover amongst other things, parking for vehicles of site personnel, HGV deliveries, and loading and unloading of plant and materials. This is a matter for the Council to enforce if necessary.
23. A 6m gap would be provided between the proposed car parking spaces. This offers enough space for vehicles to manoeuvre within the site and to enable exit from the site in forward gear.
24. Fir Tree Road is a busy road and interested parties have commented that accidents have occurred on it. A central pedestrian refuge that is used by pedestrians to cross the road is located outside the neighbouring building of No 40 and is close to the appeal site. Although the proposal would result in an increase in vehicle movements to and from the site, appropriate visibility splays are achievable. Therefore, I do not consider there would be increased harm to highway and pedestrian users as a result of the access arrangement or due to the increase in the number of vehicles using Fir Tree Road.
25. I conclude that the appeal development would not materially harm highway safety and on-site car parking provision would be acceptable and would comply with the Reigate & Banstead Local Plan Development Management Plan (2019) Policies DES1 and TAP1 seek amongst other things, that planning applications will be looked upon favourably unless they would have an unacceptable impact

on highway safety or the residual cumulative impacts on the road network would be severe, taking into account proposed mitigation.

Other Matters

26. Interested parties have raised concerns that the appeal development would harm the Green Belt and a Conservation Area. Whilst there is an area of Metropolitan Green Belt further along Fir Tree Road, the appeal site does not fall under either designation.
27. Concerns over harm to a wildlife habitat and trees were raised by the interested parties. There is no evidence before me that protected species are present on site. However, this can be dealt with through separate legislation if such species were found to be present on site. The pond at the front of the site has been filled in. Although some vegetation would be removed to accommodate a larger building footprint and the hardstanding, the proposal would add vegetation to the front boundaries, which would help to compensate for the loss of vegetation. The proposed landscaping and existing tree protection can be dealt with through planning conditions.
28. The impact upon the existing drainage and sewerage capacity has been highlighted. However, I have not been provided with details of any specific harm and therefore I consider the proposal to be acceptable in relation to this. Furthermore, the site is not within a high flood risk area and I have no technical evidence that the development would pose any flood risk.
29. Additional pressure on existing services has been raised. I have no specific evidence; however, the proposal is for five small residential units and therefore I do not consider it would be harmful to existing services.
30. I do not consider the proposal would result in a significant rise in crime levels. The increase in number of households proposed would offer a benefit of an increased level of site surveillance.

Conditions

31. The approved plans are detailed in a condition as a matter of clarity. A materials sample condition is included to ensure the proposed development complements the appearance of the street. A finished floor levels condition would ensure a satisfactory visual relationship between the proposed building and the neighbouring buildings.
32. A condition would be included to ensure the submitted Tree Protection Plan and Arboricultural Method Statement are adhered to, in the interests of tree protection and to protect the character and appearance of the area. Hard and soft landscaping conditions would ensure appropriate landscaping is provided that complements the character and appearance of the area. The appellant has requested that implementation is within the first planting season of occupation. However, in the interests of protecting the character and appearance of the area, I consider it necessary this be carried out prior to occupation of the flats.
33. As the site lies within an area of high archaeological potential, a condition is included to ensure appropriate protection of a possible heritage asset. The appellant has asked that this condition be reworded in case the site is sold.

However, it is important in the interests of any potential heritage asset that no development takes place until this condition is adhered to.

34. A construction method statement condition is included in the interests of protecting the living conditions of nearby residents and highway safety.
35. Road access and on-site car parking conditions are necessary for highway safety purposes. Electric vehicle charging and cycle storage conditions are consistent with Policy TAP1 of the DMP and in the interest of sustainable travel. Obscure glazing and non-opening windows would be conditioned in the upper floor flank windows to avoid direct overlooking of properties No 36 and No 40 Fir Tree Road. A condition in relation to Energy and Water Efficiency would accord with Policy CCF1 of the DMP and be in the interests of efficient use of resources and to minimise carbon emissions. A broadband condition would be consistent with Policy INF3 of the DMP and would promote access and a high-quality electronic communications network. A bin store condition is included to ensure an appropriate bin store is provided for refuse and recycling for the proposed flats and in the interests of protecting the character and appearance of the area.

Conclusion

36. For the reasons given above and having regard to all other matters raised, I conclude the appeal should be allowed.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 075 Rev.A, 100 Rev.A, 101 Rev.A, 102 Rev.C, 103 Rev.B, 300 Rev.B, 301 Rev.C, 302 Rev.C, Location Plan, Block Plan.
- 3) Prior to the construction of the approved building works above ground level, samples of all external facing materials, including fenestration and roof, shall be submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the approved building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No site clearance, preparatory work or development shall take place until all related arboricultural matters, including arboricultural supervision, monitoring and tree protection measures are implemented in strict accordance with the approved details contained in the Tree Protection Plan and Arboricultural Impact Assessment and Method Statement compiled by ACD Environmental reference PRI22294aia-ams dated 6th February 2019. The scheme for the protection of the retained trees shall

be carried out as approved, retained and adhered to at all times throughout the construction works.

- 6) Prior to the construction of the approved building above ground level details of both hard and soft landscaping, along with a scheme of maintenance, shall be submitted to and approved in writing by the local planning authority. These details shall include:
- i) Trees, hedges and any other soft planting. Including an establishment maintenance schedule of a minimum of 2 years, full planting specifications, planting sizes and densities;
 - ii) boundary treatments;
 - iii) hard surfacing materials.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The completed scheme shall be maintained in accordance with the approved scheme.

- 7) If, within a period of 5 years from the date of planting, the tree or hedge (or any tree or hedge planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or hedge of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or hedge unless the local planning authority gives its written consent to any variation.
- 8) No development shall take place until the applicant/developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site personnel, operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) programme of works (including measures for traffic management);
 - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vi) HGV deliveries;
 - vii) vehicle routing and on-site turning for construction vehicles;
 - viii) wheel washing facilities;
 - ix) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 10) The flats shall not be occupied until a means of access for vehicles shall have been constructed in accordance with the approved plans. The access shall be retained thereafter.
- 11) The development hereby approved shall not be occupied until the eastern most access from the site to Fir Tree Road has been permanently closed and any kerbs, verge, footway, fully reinstated.
- 12) No flat shall be occupied until space has been laid out within the site in accordance with drawing no. 075 Rev.A for 6 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for the parking of vehicles.
- 13) The development hereby approved shall not be occupied until at least 1 of the available car parking spaces is provided with a fast charge socket (current minimum requirement 7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply) in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. It shall remain in an operational condition at all times thereafter.
- 14) No flat shall be occupied until details of the secure parking of bicycles within the development site have been submitted to and approved in writing by the Local Planning Authority and shall thereafter be kept available for the parking of bicycles.
- 15) The building hereby permitted shall not be occupied until the side (east and west elevations) windows at first floor level are fitted with obscured glazing which shall be fixed shut, apart from a top hung opening fanlight whose cill height shall not be less than 1.7 metres above internal floor level. The second floor rooflights (east and west elevations) of the development hereby approved shall be glazed with obscured glazing which shall be fitted with restrictors limiting openings to 10cm or less, unless the cill height would be greater than 1.7 metres above internal floor level. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the windows shall remain as such thereafter.
- 16) The development hereby approved shall not be occupied until an Energy and Water Efficiency Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall detail how the development will:
 - a) Ensure that the potential water consumption by occupants of each new dwelling does not exceed 110 litres per person per day.
 - b) Achieve not less than a 19% improvement in the Dwelling Emission Rate (DER) over the Target Emission Rate (TER) as defined in Part L1A of the 2013 Building Regulations.

The development shall be carried out in accordance with the approved details and any measures specific to an individual dwelling(s) shall be implemented, installed and operational prior to its occupation and shall remain as such thereafter.

- 17) The development hereby approved shall not be occupied until all flats within the development hereby approved are provided with the necessary infrastructure to facilitate connection to a high speed broadband which shall remain in place thereafter. Unless otherwise agreed in writing with the Local Planning Authority, this shall include as a minimum:
 - a) A broadband connection accessed directly from the nearest exchange or cabinet.
 - b) Cabling and associated installations which enable easy access for future repair, replacement or upgrading.
- 18) No flat shall be occupied until details of the bin store, including siting and design, within the development site have been submitted to and approved in writing by the Local Planning Authority. The approved bin storage shall be provided before occupation of the first dwelling and shall thereafter be retained for the storage of bins.