
Appeal Decision

Site visit made on 1 September 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th September 2020

Appeal Ref: APP/R3650/W/20/3245353

Land adjacent to 17 Brighton Road and opposite Latimer Road, Godalming, Surrey GU7 1NT

- 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 Abdul Lodhi of Modern Era Builders Ltd against the decision of Waverley Borough Council.
 - The application Ref WA/2019/0876, dated 9 May 2019, was refused by notice dated 20 August 2019
 - The development proposed is described as 'Erection of a detached dwellinghouse'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted an up to date Ecological Report with the appeal. I have accepted this as it is relevant to my considerations and all parties would have had an opportunity to review it and provide comments.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the living conditions of the occupants of 17 Brighton Road, with particular reference to privacy;
 - Whether the proposal would provide adequate living conditions for future occupants, with particular reference to outdoor amenity space; and
 - The effect of the proposed development on protected species.

Reasons

The effect on the character and appearance of the area

4. The appeal site encompasses a parcel of steeply sloping land which adjoins a larger semi natural wood. The woodland is not particularly deep but is arranged along Brighton Road and affords this street a semi-rural character commensurate with the edge of town location. The trees within the appeal site are of limited value as individual specimens but they visually form part of a

- wider woodland that collectively creates an attractive roadside feature in the street scene and is therefore of importance to the character of the area.
5. The housing on the eastern side of Brighton Road is located to the south of the appeal site and is arranged in a discernible building line. It broadly encompasses modest period style properties that are often arranged in semis and terraces and set above the road. Small but verdant front gardens are regularly delineated by retaining walls constructed from local stone or brick. The properties on the western side are not elevated above the road but they otherwise reflect many of these characteristics.
 6. The continuity of the Brighton Road street scene has been eroded by recent development on its eastern side, which has involved three storey schemes with frontage hard standings that are level with the road and are provided in lieu of front gardens and retaining walls. That said, these developments reflect the architecture found in the road.
 7. Consequently, the buildings in the stretch of Brighton Road near to the appeal site have a collective harmony and consistency that enhances the character and appearance of the area. The same can be said of the properties nearest to the appeal site in Latimer Road and Town End Street.
 8. The appeal scheme would result in much of the appeal site being cleared of its vegetation to the detriment of the wooded verdant appearance that currently contributes positively to the street scene. The extent of the vegetation lost would not be extensive, but the change would nevertheless be harmfully strident due to the site's location at a prominent junction.
 9. The appeal scheme would also result in significant engineering and recontouring works, with extensive retaining walls constructed to sure up the slope and a parking area discordantly positioned level with the street. Retaining walls are a feature of the road but they are generally simple in form and arranged in a harmonious way. The proposal on the other hand would include retaining walls of a taller and more extensive appearance. There would also be some tiering and the levels would not integrate with those of the front gardens to the south. This would set the appeal site apart from the general character and appearance of other development nearby.
 10. Furthermore, the dwelling would have a curved green roof, a timber boarded finish and large areas of glazing. In some settings this could amount to an interesting addition, but Brighton Road is an established street with a coherence to the layout and appearance of the buildings. As a result, the proposed dwelling would have a strident and discordant appearance in the street scene of Brighton Road as well as in views from Latimer Road and Town End Road.
 11. In conclusion, the proposal would significantly harm the character and appearance of the area contrary to Policy TD1 of the Waverly Borough Local Plan Part 1 Strategic Policies and Sites 2018 (LP2018) and retained Policies D1 and D4 of the Waverley Borough Local Plan 2002 (LP2002). These policies seek to secure high quality development that responds to the local character of the area in which it is located.

The effect on the privacy of the occupants of 17 Brighton Road (No 17)

12. The proposed dwelling would be located adjacent to No 17, a modest end of terrace property with side windows facing the appeal site. The proposed dwelling would have large windows facing No 17 at close range. The windows would serve the first floor living accommodation and a second floor landing.
13. The proposal would incorporate the provision of a tall retaining wall outside the first floor windows facing No 17. This would screen the outlook from the first floor and thus prevent any unreasonable overlooking from occurring. Obscured glazing could be used to prevent any overlooking from the landing on the second floor - this could be secured through a planning condition.
14. In conclusion, the proposal would not harm the living conditions of the occupants of No 17 due to an unreasonable impact on privacy. Accordingly, there would be no conflict with Policy TD1 of the LP2018 and Policies D1 and D4 of the LP2002, which seek to secure development that does not result in a loss privacy for neighbours.

The adequacy of the outdoor amenity space

15. The main area of outdoor amenity space available to the future occupants of the proposed dwelling would be to the rear of the property. This space would be reasonably private and of an adequate size for a two-bedroom property. The rear garden would allow future occupants space to sit out and dry washing for example.
16. The appeal site has a notable slope adjacent to the road and then it levels off slightly before rising again. The garden space would be located broadly in the location of this natural plateau. Although this area would be excavated, the resulting incline would be similar to that of the adjacent rear gardens to the south. This is a good indicator that the sloping nature of the site would not inherently prevent the provision of an adequate garden.
17. The garden would incorporate existing Beech and Cheery trees and would be next to heavily vegetated land. This could result in the garden being shaded for long periods. The trees could also be a nuisance in terms of leaf litter and branch shedding. However, the garden would be quite generous for a two-bedroom property, being similar in size to those properties to the south, which also abut mature trees. This suggests the presence of trees would not be so great a nuisance as to render the outside space inadequate or unusable.
18. In conclusion, the proposal would provide adequate outdoor amenity space and therefore a conflict with Policy TD1 of the LP2018, in so far as it relates to this matter, would not occur.

The effect on protected species

19. Being part of a semi mature broad leaf woodland, the appeal site forms part of a habitat that can potentially support protected species¹. The most up to date Ecological Appraisal includes a desk study, extended phase 1 habitat survey and a badger survey. All were undertaken to ascertain the likely presence or otherwise of protected species. The Ecologist undertaking the surveys did not identify any protected species within the appeal site. A badger sett was

¹ Species and Habitats of Principal Importance included in the England Biodiversity List published by the Secretary of State under Section 41 of the Natural Environment and Rural Communities Act 2006

identified in the vicinity, but the development would have little impact on this species if precautionary measures are followed during construction. The overall conclusion of the appellant's Ecologist is that the appeal scheme would have a negligible ecological impact and could represent a net gain.

20. The Council has not disputed the findings in the most up to date ecological report, which is less than one year old. In addition, substantive evidence has not been provided to counter the views of the appellants Ecologist. Accordingly, I am satisfied the findings in the Ecological Appraisal, that protected species are unlikely to be present and effected by the development, can be relied upon.
21. The appellant owns a wider parcel of land next to the appeal site that includes broad leaf woodland. Consequently, it would be possible to secure enhancements to this area through a Landscape Ecological Management Plan. There is no substantive evidence before me to demonstrate this approach would not deliver at least a modest net gain. This would compensate for the damage done to the appeal site as a potential habitat for protected species if the appeal scheme went ahead. In the event the scheme was otherwise acceptable a planning condition could have been used to achieve this and secure the recommendations in the Ecological Appraisal. Accordingly, a conflict with Policy NE1 of the LP2018, which seeks to safeguard protected species, would not occur.

Other Matters

22. Various concerns have been raised by interested parties including reservations regarding highway safety and ground conditions, which I have noted. However, given my overall conclusion it has not been necessary for me to address these matters further. Similarly, given my overall conclusion that the appeal should fail, there would be no effect on any European Site/Special Protection Area and therefore it is unnecessary to consider this matter further.
23. Although old, Policies D1 and D4 of the LP2002 are broadly consistent with Paragraph 127 of the National Planning Policy Framework (the 'Framework') and therefore the conflict with them can be afforded significant weight. Policy TD1 of the LP2018 is also consistent with the Framework and can be afforded significant weight.
24. The proposal would boost housing supply but the contribution in this respect would be very modest. The Council is currently able to demonstrate a five-year housing land supply. The Council is therefore already significantly boosting the supply of housing as required to by the Framework. In this context the provision of an additional home is of limited weight.
25. The evidence before me does not demonstrate the appeal scheme would involve the reuse of previously developed land so there is no benefit in this respect. Similarly, technical evidence is not before me to demonstrate that the appeal site is dangerously unstable, and that the construction of a dwelling would address this alleged problem.
26. Evidence has not been provided to suggest local services, facilities or clubs are suffering for lack of patronage and therefore the modest support to the local economy and community capital provided by the development would be of limited weight. The proposal would also result in benefits to the construction

industry, but these would be short lived. There may also be some modest benefits to biodiversity. The proposal is in the settlement boundary, but it does not automatically follow that permission should be granted.

27. Thus, the evidence before me indicates the cumulative benefits of the proposal should carry limited weight and are some way short of the significant weight afforded to the harm I have identified and the subsequent conflict with the development plan.

Conclusion

28. The proposed development would provide adequate living conditions and would not harm biodiversity or the living conditions of neighbours. However, it would significantly harm the character and appearance of the area. It is therefore contrary to the development plan as a whole. There are no other considerations which outweigh this finding. Thus, for the reasons given, the appeal has failed.

Graham Chamberlain
INSPECTOR