



Appeal Decision

Site visit made on 9 October 2020

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25/11/2020

Appeal Ref: APP/C3620/W/20/3250823

17 Barnett Close, Leatherhead KT22 7DW

- 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 Sawkings Norton Architecture against the decision of Mole Valley District Council.
 - The application Ref MO/2019/1673/PLA dated 16 September 2019, was refused by notice dated 24 October 2019.
 - The development proposed is described as erection of 4 No. two storey terraced dwellinghouses with associated access, soft and hard landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Appellant has confirmed that the description of development changed from that stated on the application form in the interests of clarity I consider that the amended description does accurately describe the appeal scheme and accordingly I have adopted the amended description in the heading above.
3. The Appellant has brought to my attention that the incorrect certificate of ownership was completed on the application form, and has provided a copy of the correct certificate of ownership and confirms that notice has been served on the owner of the site. Taking a pragmatic approach I do not believe that any party has been prejudiced or caused any injustice by me proceeding with the appeal in light of this correction.

Main Issues

4. The main issues in this appeal are the effect of the proposed development on (i) the character and appearance of the area; (ii) the living conditions of occupants of neighbouring properties and future occupiers of the proposed development; (iii) biodiversity; and (iv) contributing to reducing the causes and effects of climate change.

Reasons

Character and Appearance

5. The appeal site is situated within a predominantly residential area. The proposed development would introduce a built form into an undeveloped area which is currently overgrown with trees/shrubs along some boundaries.

6. The residential area is varied in terms of form, No. 17a Barnett Close is a detached single storey dwelling, No. 17 Barnett Close a semi-detached two storey property, Hazelmere Close contains a series of two storey terraced houses, and a substantial four storey block of flats. The proposal would introduce a different design to that of neighbouring properties, with flat roof and large sections of glazing.
7. The proposed development would be clearly visible from Hazelmere Close and glimpsed between properties at the end of the Barnett Close cul-de-sac.
8. The proposed development would be limited in terms of outside space to the front of each property; however, each property would have private outdoor space to the rear. I am mindful that due to the varying forms of residential properties in the area the amount of outside space and plot sizes differ.
9. The Council confirm that the site was heavily planted with trees some of which I understand were removed prior to the determination of the application. These were not protected trees; the proposed development should be determined on the basis of factors on the ground and not on the basis of its historic appearance. The proposed development retains most existing trees, and proposes new planting.
10. On this basis given the varying building forms and patterns of development the proposed development would not be incongruous with the surrounding area.
11. I conclude that the development would not harm the character and appearance of the area. There is no conflict with Policy CS14 of the Core Strategy and Policies ENV22, ENV23, ENV24 and ENV25 of the Mole Valley Local Plan (2000) (the Local Plan) which seek amongst other things to resist poor quality of design, by ensuring development respects the site, character and appearance of the locality and incorporates appropriate landscaping.

Living Conditions

12. The relationship the proposed development would have with regard to the living conditions of the occupants of Hazelmere Close were not identified by the Council as problematic, I have no substantive evidence before me to disagree with their findings.
13. The rear elevation of the proposed development faces the side of No. 17a and its rear garden. The separation distance between the rear elevation of the proposed development and No. 17a reduces from plot 1 to 4. There are a number of trees to be retained along the boundary which would screen to a degree the proposed development. Whilst there are restricted views from the appeal site, the close proximity of the proposed development to No. 17a would be clearly visible.
14. Obscure glazing to the window serving bedroom 1 of plot 2 is proposed to mitigate overlooking from the first floor. It is acknowledged that there is another window serving the bedroom to give unrestricted natural light and outlook to the occupiers of the proposed dwelling, however the secondary window would allow direct overlooking of the adjoining property, plot 3's, rear garden.
15. In terms of the relationship with 17 Barnett Close, overlooking would occur particularly from the side window serving bedroom 1 of plot 1, which faces

directly into the rear garden of No. 17. Whilst mutual overlooking does exist between properties in this area; the scale, positioning and design of the proposed development would diminish the levels of privacy currently experienced.

16. The proposed development includes a footpath linking Barnett Close and Hazelmere Close, fencing could be provided to limit the noise and disturbance associated with its use. Nevertheless, the access point from Barnett Close would be close to the front of No's 17 and 17a and the potential unrestricted use of the footpath would cause unnecessary comings and goings with associated noise and disturbance to the detriment of the occupiers of the neighbouring properties and plots 1 and 2 of the proposed development.
17. The Framework at paragraph 127 emphasises the importance of creating places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
18. I have taken into consideration the fear of crime expressed in the representations received and comments from the Surrey Police Designing out Crime Officer which raise concerns about the proposed footpath. The Police suggest a condition could be attached recommending that the proposed development should be assessed against Secured by Design Standards. Whilst there is no substantive evidence that the proposal would result in an increase in crime locally, I am not persuaded this would remove the fear of crime given the lack of natural surveillance of the footpath and the potential to be used unrestricted. On this basis the fear of crime would undermine the quality of life in the local community and adversely affect the living conditions of the occupiers of the neighbouring properties and the future occupiers of the development itself.
19. With regard to effect of the development on the future occupiers of the proposed development, I note that the proposed internal accommodation meets the national space standards.
20. I note that part of plot 4 would directly face the block of flats on Hazelmere Close. On the ground floor the kitchen window facing Hazelmere Close would not directly face the large side elevation of the flats, however on the first floor the window serving bedroom 2 would directly face the substantial building which at the separation distance proposed would have an overbearing effect on outlook.
21. The amount of useable private garden space is limited, particularly for plot 3 however there are no standards set by the Council in terms of what would be an appropriate level. Whilst restricted I note that the space would not house refuse bins or cycle storage and would be private, therefore whilst limited the small private amenity space would not decrease the quality or useability of the space for outdoor living purposes.
22. The Appellant has suggested that overlooking from the first floor windows towards No. 17a could be controlled by a planning condition to ensure these windows would be obscurely glazed. However, this would not alleviate the perception of overlooking and loss of privacy, nor would it provide suitable living conditions for occupants of the proposed development. With regard to a

similar condition relating to the bedroom window facing No. 17, as this would be a secondary window a suitably worded condition to obscurely glaze the side window of bedroom 1 of plot 1, on balance, would alleviate my concerns.

23. Notwithstanding the potential to mitigate overlooking and loss of privacy to No. 17 Barnett Close from the first floor window of plot 1, and that the amount of private outdoor space would be acceptable I find that there would be harm to the living conditions of occupants of neighbouring properties and future occupiers of the proposed development.
24. There is conflict with Policies ENV22 of the Local Plan which seeks amongst other things to protect the living conditions of occupiers of neighbouring properties and those of occupiers of new development. There is conflict with the Framework which seeks to ensure development has high standards of amenity for existing and future users.

Biodiversity

25. Policy CS15 of the Core Strategy requires all developments to promote biodiversity through planting and other schemes. There is no requirement for developments to compensate for the loss of trees which were removed prior to the determination of an application and which were not protected.
26. The proposed development provides a landscape scheme; however, no specifics of the retained trees, those removed or proposed planting are included in the details before me. Whilst the details provided by the appellant are limited, substantive evidence has not been provided to persuade me that appropriate measures could not be secured effectively through the imposition of a planning condition.
27. I conclude that there would be no harm to biodiversity. There is no conflict with Policy CS15 of the Core Strategy which amongst other things seeks to promote biodiversity. There is no conflict with the Framework which encourages environmental net gain.
28. The third reason for refusal contends there would be conflict with Policy ENV15 of the Local Plan in terms of not delivering biodiversity net gains, satisfactory mitigation for the loss of mature trees or meaningful planting suggests. However, this policy relates to development which would likely result in harm to a protected species or its habitat and the requirement for site investigation as necessary. Based on the information before me there is no evidence that the proposed development would likely result in harm to a protected species or its habitat and there is no requirement in this policy for biodiversity net gain to be secured.

Climate Change

29. Policy CS19 of the Core Strategy requires a development of this type to provide a saving of 10% in carbon dioxide emissions through the provision of renewable energy technologies. The Appellant has provided basic information in the Planning Statement to suggest there is potential to incorporate measures to reduce carbon dioxide emissions in accordance with the policy requirement. Whilst the details provided by the appellant are limited, demonstrable evidence has not been provided to persuade me that appropriate measures could not be secured effectively through the imposition of a planning condition.

30. I conclude that the proposed development would contribute to reducing the causes and effects of climate change. The proposal would not conflict with Policy CS19 of the Core Strategy which seeks to reduce carbon dioxide emissions through sustainable construction. There is no conflict with the Framework which encourages developments to meet the challenges of climate change.

Other Matters

31. A number of objections have been submitted against the proposal, including the effect on drainage, traffic, parking etc. These concerns were considered by the Council in the Officer's Report, the Council did not have concerns relating to these issues and based on the information I have before me I do not disagree.
32. The Council and the Appellant agree that the Council cannot demonstrate a five year of housing land supply, the Council confirm a demonstrable supply of only 2.63 years of housing land. Under such circumstances, Paragraph 11 of the first-floor Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.

Planning Balance and Conclusion

33. The proposal would result in benefits in terms of providing much needed additional housing, which could be delivered quickly, in a sustainable location.
34. Construction works would create short term levels of employment and the provision of housing and would increase local spending which would contribute towards the local economy. Again, these are positive matters in the planning balance.
35. The site is of limited ecological value and biodiversity enhancements to the site along with measures to reduce climate change could be secured by planning condition.
36. Whilst the proposal accords with many policies of the development plan, the development would unacceptably harm the living conditions of the occupiers of neighbouring properties and future occupiers of the proposed development itself in conflict with Policy ENV22 of the Local Plan and paragraph 127 of the Framework.
37. On balance, it is therefore considered that the harm to the living conditions of occupants of neighbouring properties and future occupiers of the proposed development would significantly outweigh the benefits of the proposal.
38. For the reasons set out above, I conclude that the appeal should be dismissed.

C Pipe

INSPECTOR