The Planning Inspectorate

Appeal Decision

Hearing Held on 30 September 2020
Site visit made on 1 October 2020

by O S Woodwards BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2020

Appeal Ref: APP/M3645/W/19/3242672
26 and 28 Church Lane, Oxted RH8 9LB

- 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 Churchill Retirement Living Ltd against the decision of Tandridge District Council.
- The application Ref TA/2019/296, dated 1 February 2019, was refused by notice dated 3 October 2019.
- The development proposed is the redevelopment of the site to form 26 Retirement Living apartments, together with access, communal facilities, car parking and landscaping.

Decision

1. The appeal is allowed, and planning permission is granted for the redevelopment of the site to form 26 Retirement Living apartments, together with access, communal facilities, car parking and landscaping at 26 and 28 Church Lane, Oxted RH8 9LB, in accordance with the terms of the application TA/2019/296, dated 1 February 2019, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by the appellant against Tandridge District Council. That application is the subject of a separate Decision.

Preliminary Matters

3. The reasons for refusal in relation to drainage, affordable housing, and CO2 emissions have been addressed and agreed between the main parties as set out in the Statement of Common Ground. The agreement was reached through the submission of additional material in relation to drainage and on the energy strategy, and the provision of a commuted sum payment in lieu of affordable housing through a s106 Planning Obligation. These matters are not therefore in dispute and do not form part of the main issues of the appeal.

4. At the Hearing, the appellant sought to submit a revised drawing showing additional car parking. The Council confirmed that the additional car parking did not resolve its objections to the proposal in relation to highway safety. In any event, the revision materially alters the nature of the proposal. With the Wheatcroft principle in mind[1], I took the view that it could potentially prejudice

[1] Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

the interests of interested parties who would not have had the opportunity to comment on the revised proposal. I have not, therefore, had regard to that plan in coming to my decision.

5. The development plan for Tandridge District Council includes the Core Strategy 2008 (the CS) and the Tandridge Local Plan Part 2: Detailed Policies 2014 (the LP). There is an emerging Local Plan, entitled Our Local Plan:2033. This is being examined and the Inspector's Report had not yet been received. Since the policies in the plan could be the subject of modification before the plan is adopted, it has limited weight at this time.

Main Issues

6. The main issues are whether or not:

- the proposal is of a high-quality design, of appropriate scale and massing, that is in keeping with the character and appearance of the area; and
- the proposed development would result in a detrimental impact to highway safety having regard to the level of parking provision proposed.

Reasons

Character and appearance

7. The appeal site consists of two large detached houses on Church Lane. Both houses sit in generous plots, are set back from the road with large hard standing driveways and have substantial hedging and other vegetation to the boundary with the road. This part of Church Lane is characterised by a mixture of similar large, detached houses in generous plots and moderately sized blocks of flats. The area has a green and verdant character, both to the rear gardens and along the front boundaries with the road. The majority of properties have hard standing areas to their front gardens and driveways, behind substantial planting along the boundary.

8. It is proposed to construct a building for retirement living flats. It would comprise a single three-storey building, but with the appearance of two separate buildings to the front with distinguishing architectural features, joined by a recessed and more lightweight link section albeit still at two/three storeys high. The building would be set back behind a driveway and parking area to the front, with a new substantial hedge along the front boundary. A garden area is proposed to the rear and a mature tree line to the rear boundary would be retained.

9. The building as a whole would be larger and wider than the neighbouring buildings and the typical building size along this part of Church Lane. However, the architectural approach of two distinct building styles ameliorates this. The link section would be fairly substantial, but it would be recessed and of a more lightweight nature, and it would help to break up the bulk and massing of the building. In addition, the building would be set behind a substantial hedge that would be semi-mature on planting and would grow even more substantial over time. This hedge and the substantial vegetation to all boundaries would partially screen the proposed building from the street and neighbouring properties, only allowing for glimpsed views. This would further mitigate the visual effect from the width and scale of the proposed building.

10. To the rear, the proposal presents as one building, with the same architectural approach across the entire rear elevation. However, this is a secluded part of the site, surrounded by mature landscaping and tall trees, all of which are to be retained. It is only visible in glimpsed views from a small number of surrounding properties. The architecture is also not monolithic, with a varied pallet of materials, balconies, and an upper storey set within a roof slope all contributing to the articulation of the rear facade. The overall architectural approach to the rear elevation is therefore in-keeping with the character of the area and is acceptable.

11. The side elevations would be largely blank with a limited number of windows. However, this is common to flank elevations to buildings along Church Lane. It is also proposed to step the building down to both flank elevations in stages, providing architectural detailing as well as breaking down the bulk and mass towards the side boundaries. This successfully manages the visual and physical relationship of the proposed building to the boundaries of the site.

12. The hardstanding to the front is characteristic of the area. There would be substantial vegetation and greening around the hardstanding and the overall landscaping of the front garden area would be acceptable. The proposed landscaping to the rear is substantial, including the retention of a significant belt of mature trees. This is characteristic of the area and is successful. The detail of the landscaping would be controlled by condition, including the provision of a footway to the rear seating area. As a managed block of retirement flats, maintenance of the proposed landscaping could readily be secured by condition were the appeal to succeed.

13. It was agreed between the main parties at the Hearing that the level of cycle parking could be substantially lower than the adopted standards of 26 spaces, as set out in the Parking Standards SPD 2012, reflecting that the proposal is for retirement living apartments, rather than flats for general sale. It was also agreed that this lower level of cycle parking could be agreed and successfully integrated into the landscaping to the front of the site or to the side of the proposed building by control of the detail by condition.

14. Consequently, subject to control of the detail of the architecture and landscaping by condition, I consider that the proposed building and landscaping would be in-keeping with, and positively contribute to, the character and appearance of the area. The proposal therefore complies with the relevant parts of Policies CSP18 and CSP19 of the CS which, amongst other criteria, seek high quality design and development of density that does not harm the character of the area. It would comply with the relevant parts of Policies DP7 and DP8 of the LP which, amongst other criteria, seek high quality design of an appropriate size and scale for the area. It would also comply with Chapter 12 of the National Planning Policy Framework (the Framework) which, amongst other criteria, requires high quality design.

On-street parking pressure and highway safety

15. It is proposed to provide 10 car parking spaces on-site. This equates to a ratio of 0.38 spaces per unit, or 0.34 if one of the spaces is permanently reserved for the warden. Policies CSP12 of the CS and DP7 of the DP require that regard should be had to adopted parking standards. These are set out in the Parking Standards SPD 2012, and are for a maximum of 1 space per unit of

accommodation for the elderly but subject to lower provision if justified through individual assessment.

16. The appellant has provided an assessment of parking usage at elderly accommodation in Epsom, Faversham, and Birchington. These are of a similar size to the appeal scheme, in a similar part of the country, and with similar pedestrian accessibility to nearby town centres when allowing for the fact the appeal proposal includes for the provision of a controlled pedestrian crossing to the side of the road with the footway. The parking restrictions on surrounding roads are different, but in the studies the car parking did not exceed maximum occupancy in any case and so would not have skewed the survey results to any material degree. Although raised as a concern, no empirical evidence was provided by the Council to demonstrate that car ownership levels in the vicinity of the appeal site would be likely to give rise to significantly different parking demand from the other sites, for example by a breakdown of car ownership by age group.

17. The assessed accommodations are therefore robust comparators, in my view. The assessment found that the average ratio of spaces to units was 0.28, based on the maximum occupancy of car parking spaces at the three sites, the level of demand reflecting the relatively low levels of car ownership associated with the age of the residents of the flats. I am therefore satisfied that the average demand for parking spaces would only rarely exceed the proposed ratio, whether it is considered to be 0.38 or 0.34, resulting in some on-street parking. However, on the evidence before me, this would be at very low levels. I am mindful, in this regard, that there are several nearby streets with the capacity to accommodate limited overspill parking during most of the day, with parking on Wheeler Avenue and Peters Avenue only restricted between 07:30 and 09:30. On balance, therefore, I consider that there would be no unacceptable increase in on-street parking pressures or unacceptable harm to highway safety as a result of the proposal.

18. Consequently, there would be no conflict with the policy standards because individual justification has been provided of the proposed 0.38 or 0.34 ratio. As such, there would be no conflict either with the relevant parts of Policies CSP12 and CSP18 of the CS which, amongst other criteria, require that development meet parking standards. It also complies with Policies DP5 and DP7 of the DP which, amongst other criteria, require that development meets parking standards and that it does not impede the free flow of traffic or harm highway safety. There is no conflict either with Paragraph 109 of the Framework, which, amongst other criteria, requires that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

19. An Ecological Impact Assessment has established that the existing properties support two low status day roosts for common pipistrelle bats. The Surrey Wildlife Trust confirmed that a Natural England protected species licence would be required in relation to the bats prior to the works commencing. This could be secured by condition.

20. A number of objections have been received from neighbours, including the Oxted & Limpsfield Residents Group and Oxted Parish Council. The neighbour

from 30 Church Lane also attended the Hearing to set out their concerns with regards to the overlooking of their garden and kitchen.

21. The letters of objection raised various concerns in addition to those addressed above. With regard to highway safety, the Highways Authority support the proposal, subject to the control of visibility splays, the provision of mobility scooter parking, the installation of a pedestrian crossing, and speed signs. These can all be secured by condition. There would be no harmful overlooking of neighbouring properties other than from the first and second floor windows on the eastern elevation toward 30 Church Lane. This can be addressed with a planning condition securing obscure glazing for those windows.

22. No substantiated evidence was submitted to address other concerns relating to loss of light, increase in noise to neighbours, access for emergency vehicles, increase in traffic, slope of the site and access, and surface water run-off and I have no reason to suppose that the development would be unacceptable in any of these regards. Vermin and refuse storage is an operational management issue and not a material planning consideration.

23. I have found the appeal proposal to be acceptable on its own merits, with no conflict with the relevant policies of the Development Plan. It is not therefore necessary for me to consider housing land supply or the so-called 'tilted balance'.

Planning Obligation

24. A completed s106 Planning Obligation, dated 30 September 2020, has been provided. This secures a contribution of £247,685 towards the provision of off-site affordable housing. The contribution reflects the viability of the scheme as agreed by the Council, and following an independent third party review of the viability assessment. This provision is required by Policy CSP4 of the CS, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.

Conditions

25. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty. The Council suggested a number of conditions which I have considered and amended in the light of government guidance on the use of conditions in planning permissions.

26. In the interest of visual amenity, a condition is necessary to ensure that the construction works do not damage the trees that are proposed to be retained. The drainage conditions are necessary in order to adequately to prevent increased risk of flooding. The protected species condition is necessary in order to ensure that the effect of the proposal on bats is acceptable. The landscape, materials, and lighting conditions are necessary in order to ensure that the proposal does not harm the character and appearance of the area.

27. The access, parking, and pedestrian crossing conditions are necessary in order to ensure highway safety. Where necessary, these are worded as Grampian type conditions since some of the works would be on land not in the control of the appellant. The privacy glazing condition is necessary in order to protect the living conditions of the occupiers of neighbouring properties. The carbon dioxide condition is necessary in order to ensure the proposal meets the relevant emissions requirements, as set out in Policy CSP14 of the CS. The age

condition is necessary in order to ensure that the proposal cannot be used for open market housing, which would have different implications for matters including the layout and design of the development, parking demand, and the viability assessment and associated provision of affordable housing.

28. The tree protection, drainage, and protected species conditions are necessarily worded as pre-commencement condition, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

Conclusion

29. For the reasons above, I conclude that the appeal be allowed.

O S Woodwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

- Ms Heather Sargent – of Counsel, Landmark Chambers
- Mr Matthew Shellum – Head of Appeals & Affordable Housing, Planning Issues Ltd
- Mr Ben Smith – Design Director, Churchill Retirement Living Ltd
- Mr Mark Smith – Director, Paul Basham Associates

FOR THE LOCAL PLANNING AUTHORITY:

- Mrs Laura Field – Principal Planning Officer with the Council

INTERESTED PARTIES:

- Mr Julian Rudd-Jones – local residents

Schedule of Conditions: Appeal Ref APP/M3645/W/19/3242672

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: 20075OT P01; P02 Rev A; P03 Rev A; P04 Rev A; P05 Rev A; P06 Rev A; P07 Rev A; P08 Rev A; P10 Rev A; P11 Rev A.

3) Prior to commencement of development (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including detailed tree protection plans for both demolition and construction phases (TPP) and a detailed arboricultural method statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. Specific issues to be dealt with in the TPP and AMS shall include:

   a) Location and installation of services/ utilities/ drainage and methodology for installation where they all within root protection areas;

   b) Methods of demolition within the root protection area (RPA as defined in BS 5837: 2012) of the retained trees;

   c) Details of construction within the RPA or that may impact on the retained trees;

   d) A full specification for the installation of boundary treatment works;

   e) A full specification for the construction of the parking area and driveway within the RPA of the lime tree T37, including details of the no-dig cellular and permeable specification to be constructed and soft landscape reinstatement works. Details shall include relevant sections through them;

   f) A specification for protective fencing to safeguard trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing;

   g) A specification for scaffolding and ground protection within tree protection zones;

   h) Tree protection during demolition and construction indicated on a TPP and construction and construction activities clearly identified as prohibited in this area;

   i) Details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well concrete mixing and use of fires;

   j) Methodology and detailed assessment of any root pruning;

   k) Arboricultural supervision and inspection by a suitably qualified tree specialist; and

   l) Reporting of inspection and supervision.

4) Prior to commencement of development, details of the design of a surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The design must satisfy the SuDS Hierarchy

and be compliant with the national Non-Statutory Technical Standards for SuDS. Development shall be carried out in accordance with the approved scheme. The required drainage details shall include:

a) The results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels;

b) Evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events, during all stages of the development. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate of 2 l/s;

c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.);

d) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected;

e) Timetable for implementation;

f) Management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, including providing the details of any management company and stating the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls); and

g) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

5) Prior to commencement of development, a European Protected Species license from Natural England must be obtained. Thereafter, the development hereby permitted shall be carried out in accordance with the recommendations and mitigation measures set out in Ecological Impact Assessment report by Ecosa Dated 29th July 2019.

6) Prior to commencement of any above ground works, full details of both hard and soft landscape works must submitted to and approved in writing by the Local Planning Authority. These details shall include:

a) Proposed finished levels or contours;

b) Means of enclosure;

c) Car parking layouts;

d) The location and external appearance of a secure cycle store;

e) Other vehicle and pedestrian access and circulation areas;

f) Hard surfacing materials; and

g) Minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc.).

Details of soft landscape works shall include all proposed and retained trees, hedges and shrubs; ground preparation, planting specifications and ongoing maintenance, together with details of areas to be grass seeded or turfed. Planting schedules shall include details of species, plant sizes and proposed numbers/densities.

7) All new planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with those details in the first planting and seeding season following the completion or occupation of any part of the development (whichever is the sooner) or otherwise in accordance with a programme to be agreed in writing with the Local Planning Authority.

8) Any trees or plants (including those retained as part of the development) which within a period of five years from the completion of the development die, are removed, or, in the opinion of the Local Planning Authority, become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

9) The hard landscape works approved pursuant to condition 6) shall be carried out in accordance with the approved details prior to the occupation of the development.

10) Prior to commencement of any above ground works, details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted must been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details

11) No external/security lighting shall be installed other than in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority.

12) No part of the development hereby permitted shall be occupied unless and until the vehicular and pedestrian accesses to Church Lane have been modified in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority, and provided with visibility zones in accordance with the approved plans (ref: PBA 135.0015.007 rev B). The visibility zones shall be kept permanently clear thereafter of any obstruction over 1.05m high.

13) Prior to occupation of the development hereby permitted, space must be laid out within the site for vehicles and mobility scooters to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear, in accordance with the approved plans. The parking and turning areas shall be retained and maintained for their designated purpose in perpetuity.

14) No part of the development hereby permitted shall be occupied unless and until a highway improvement scheme, comprising the installation of an uncontrolled pedestrian crossing facility and two vehicle activated speed signs has been constructed on Church Lane, in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority.

15) Prior to occupation of Flats 10 and 26 of the development as detailed on drawings Refs 20075OT P04 rev A and P05 rev A, the first floor windows and second floor dormer window in the eastern elevation of the proposed building (indicated on Elevation D-D Ref: 20075OT P08) shall be fitted with obscure glass and shall be non-opening unless the part(s) of the window(s) which can be opened is/are more than 1.7m above the floor of the room in which the window(s) is/are installed and shall be permanently maintained as such.

16) The development shall achieve a reduction in carbon dioxide emissions of 20% beyond the 2013 Building Regulations. Prior to occupation of the development, details confirming the carbon dioxide emission reduction shall be submitted to and approved in writing by the Local Planning Authority.

17) The development hereby approved shall be occupied only by persons aged 55 and over.

---------End of Conditions----------