

Appeal Decision

Site visit made on 30 October 2020

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Appeal Ref: APP/Z5630/W/20/3249698

6 Lovelace Gardens, Surbiton KT6 6SD

- 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 Henry Reid and Mr Fred Schiff, Hathor Property Ltd, against the decision of the Royal Borough of Kingston Upon Thames.
 - The application, Ref. 19/02194/FUL, dated 5 September 2019 was refused by notice dated 11 March 2020.
 - The development proposed is the demolition of the existing family dwelling and the erection of three family dwellings with off-street parking and associated landscaping.
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Decision

1. The appeal is allowed and planning permission granted for demolition of the existing family dwelling and the erection of three family dwellings with off-street parking and associated landscaping at 6 Lovelace Gardens, Surbiton in accordance with the terms of the application, Ref. 19/02194/FUL, dated 5 September 2019, subject to the conditions in the attached Schedule.

Preliminary Matter

2. During the appeal process the appellants submitted a s106 Unilateral Undertaking dated 1 December 2020. This has the effect of precluding the acquisition of parking permits for all future occupiers of the residential units unless they are, or become, a disabled persons badge holder.
3. The Council accepts that this Undertaking has the effect of nullifying the third reason for refusal on the Council's Decision Notice dated 11 March 2020 and thereby leaves two main issues to be addressed.

Main Issues

4. The main issues are (i) the effect of the proposed pair of semi-detached dwellings towards the rear of the site on the character and appearance of the area, and (ii) the adequacy of the living conditions as regards outlook for future occupiers of the dwellings referred to in issue (i).

Reasons

Character and Appearance

5. The Council argues that the development of two houses towards the rear of the site would not be in keeping with the prevailing character of development in the area. It is considered that this character is typically defined by residential
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buildings fronting Lovelace Gardens and open landscaped gardens with communal amenity areas to the rear.

6. However, I saw on my visit that a large number of frontage properties are blocks of flats and almost all of these have garage courts and parking areas to the rear. In the immediate vicinity there is the parking for Westmorland Court, Wordsworth Court and Hursley Court. The presence of this parking diminishes the visual amenity of the rearward areas of the flats sites and more likely than not the residents' perception of private and peaceful residential environment.
7. Furthermore, there are in fact examples of substantial residential buildings in backland positions on both sides of Lovelace Gardens, with on this side of the road, Redwood Court only a short distance to the south west. And whilst I have noted the concerns of some neighbours as to the visual impact of the proposed pair of semi-detached houses, the officers' report on the application examined the potential impacts of the development in some detail.
8. The appraisal in the report found that *'with adequate space around the proposed dwellings on all sides, the proposed development would retain important visual gaps that are considered to be an important characteristic within the surrounding urban setting. The scheme would also retain some soft landscaping to the front of the site and along the side and rear boundaries which would help to soften the appearance of the proposed built forms'*.
9. Nothing that I have seen or read in this appeal leads me to take a different view on this assessment. Accordingly, on issue (i) I conclude that the proposed pair of semi-detached dwellings towards the rear of the site would have no adverse effect on the character and appearance of the area. There would therefore be no conflict with policies CS8 and DM10 of the Kingston Upon Thames LDF Core Strategy 2012 or with Section 12: 'Achieving Well-Designed Places' in the National Planning Policy Framework 2019 ('the Framework').

Adequacy of Living Conditions for Future Occupiers

10. This issue concerns the outlook from the front bedroom windows of the pair of semi-detached houses (Plots 6A & 6B). The 16.7m distance between these properties and the rear elevation of the proposed house at the front of the site (Plot 6) is below the 21m guideline in the Council's Residential Design SPD. In order to protect the privacy of the future occupants of the proposed dwelling on plot '6', the first floor windows in the front elevation of the dwellings on plots '6A' and '6B' would need to be obscure glazed and non-opening below 1.7 metres above the finished floor level. This would be the subject of a condition.
11. The Council's SPD does permit some relaxation of its guidelines to allow for the particular characteristics of the site and it is also the case that the outlook from a bedroom is less important than from a living room, kitchen or dining room, where occupiers tend to spend most of the day when at home. Furthermore, prospective occupiers of 6A & 6B would be able to decide for themselves whether or not the restricted outlook in the bedrooms is a matter that will adversely affect their enjoyment of the property.
12. I acknowledge that despite these points of mitigation, given the absence of a clear outlook from habitable rooms it is not unreasonable for the Council to have refused planning permission for the proposed development on this basis

and there would be at least some conflict with Policies CS8 & DM10 and paragraph 127f) of the Framework. Although the planning judgement is finely balanced, I consider the determining factor is that the effect of a refusal would be to lose the opportunity to add two new family dwellings to the Royal Borough's housing stock.

13. Although two dwellings are a modest contribution, the importance of the cumulative effect of such developments merits substantial weight in the light of the fact that the Council is unable to demonstrate a five year supply of deliverable housing sites. Paragraph 11d) of the Framework says that in such circumstances permission should be granted unless the adverse effects significantly and demonstrably outweigh the benefits. In this instance I do not consider that the restricted outlook from the front bedrooms of the houses on Plots 6 & 6A is sufficient to outweigh the benefit of the proposed dwellings.

Other Matters

14. Local residents have raised a range of matters by way of objection to the proposed development and these were summarised in paragraph 1 of the planning officers' report to the Surbiton Neighbourhood Committee. I have read both the summary and the original letters. Many of the matters raised have been addressed in the report and I agree with the Council's appraisal. Other points can be dealt with by the imposition of conditions.
15. On balance, bearing in mind my findings on the main issues and the need to give substantial weight to paragraph 11d) of the Framework, I do not consider that these concerns would warrant dismissal of the appeal.

Conclusions and Conditions

16. For the reasons explained above, the appeal is allowed. The Council has suggested conditions and I consider that these are reasonable and necessary, as required by the Government's Planning Practice Guidance 2014. I have therefore carried them forward to this decision. Conditions requiring the development to be carried out in accordance with the approved plans and pre-approved details / samples of facing materials and boundary treatment are needed for certainty and are in the interests of proper planning. Conditions in respect of the building operations will protect amenities and highway safety.
17. These and further conditions are appropriate to ensure a satisfactory development as regards surface water drainage; car parking; hours of operation during building; cycle storage; refuse and recycling facilities; compliance with the Arboricultural Method Statement; landscaping; obscure glazing as indicated; energy & water use efficiency; accessibility (Part M of the Building Regulations), and the preclusion of extensions and additional windows under permitted development. Between them these conditions will ensure a development of high quality that conserves resources, reduces flood risk, provides good living conditions for future occupiers and safeguards those of neighbours, has adequate cycle storage and car parking, and protects the character and appearance of the area.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision;
- 2) The development shall conform in all material aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision:
 - 0100 (Site Location Plan);
 - 0100 (OPT01- Proposed GF Plan);
 - 0101 Rev 7 (OPT01- Proposed FF Plan);
 - 0102 Rev 6 (OPT01- Proposed SF/Loft Plan);
 - 0200 (Proposed Front Elevation-Front Dwellings);
 - 0201 (Proposed Front Elevation- Rear Dwellings);
 - 0202 (Proposed Elevations-Front Dwellings);
 - 0203 Rev 2 (Proposed Elevations-Rear);
 - 0400 Rev 1 (Proposed Section);
 - 6010-01 (Landscape Design Plan);
 - 0800 Rev 7 (OPT01-3D-Overall);
 - 0801 Rev 7 (OPT01-3D-Entrance);
 - 0802 (OPT01-3D Rear Facade);
 - Arbtech TPP01;
 - Arbtech AIA 01;
 - Daylight, Sunlight & Overshadowing Report dated December 2019 (Ref: 19-5916);
 - Internal Daylight Analysis Report dated December 2019 (Ref: 19-5916);
 - Arbtech Arboricultural Method Statement dated 22 November 2019;
- 3) Development shall be carried out in accordance with details and samples for all facing materials which shall be submitted to and approved in writing by the Local Planning authority before any works above ground level are commenced. The development shall then be built in accordance with these approved samples and completed prior to occupation;
- 4) No development shall take place including any works of demolition until a construction logistic plan has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:
 - (a) Provision for loading/unloading materials;
 - (b) Storage of plant, materials and operatives' vehicles;
 - (c) Temporary site access;
 - (d) Signing system for works traffic;
 - (e) Measures for the laying of dust, suppression of noise and abatement of other nuisance arising from development works;
 - (f) Location of all ancillary site buildings;
 - (g) Measures to protect any tree, shrubbery and other landscape features to be retained on the site during the course of development;
 - (h) Means of enclosure of the site;
 - (i) Wheel washing equipment;
 - (j) The parking of vehicles of the site operatives and visitors;
 - (k) The erection and maintenance of security hoarding;

- 5) The development hereby approved shall not commence until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for the site using Suds methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy prior to the first occupation of the dwelling and maintained thereafter for the lifetime of the development;
- 6) No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 and 18:00 Monday to Friday and 08:00 to 13:00 Saturdays and at no time on Sundays or Bank or National Holidays;
- 7) The car parking shown upon the approved drawings shall be provided with a hard-bound dust free surface, adequately drained before the development to which it relates is occupied and, thereafter, it shall be kept free from obstruction at all times for use by the occupier of the development and shall not thereafter be used for any purposes other than the parking of vehicles for the occupiers of the development and visitors to it;
- 8) Prior to the occupation of the approved development, a plan shall be submitted to and approved in writing by the local planning authority indicating the positions, design, materials and type of all gates, boundary treatment, fences and means of enclosures to be erected. The development shall be carried out in accordance with the approved plan before the building is occupied;
- 9) Prior to the occupation of the development hereby approved, details of the secure cycle facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle store details shall be made available for use prior to the first occupation of the development and shall thereafter be retained for this use at all times;
- 10) Prior to the occupation of the development hereby approved, details of the refuse and recycling facilities including finishes and dimensions shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse and recycling facilities details shall be made available for use prior to the first occupation of the development and shall thereafter be retained for this use at all times;
- 11) Prior to the occupation of the development hereby approved, a waste and recycling management strategy that includes details of how the dwellings would be serviced shall be submitted to and approved in writing by the local planning authority. The plan shall thereafter be adhered to at all times for the lifetime of the development;
- 12) No development or other operations shall take place except in complete accordance with the approved document titled Arboricultural Method Statement dated 22 November 2019 and drawing numbers Arbtech TP01 and Arbtech AIA01 (hereinafter referred to as the Approved Scheme). In particular:
 - a) No operations shall commence on site in connection with development hereby approved until the tree protection works required by the Approved Scheme are in place on site;

- b) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the Approved Scheme;
- c) The fencing or other works which are part of the Approved Scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval in writing of the local planning authority has first been sought and obtained;
- 13) The approved landscape scheme (drawing number 6020-01) shall be implemented within the first planting season following completion of the development and the tree planting and landscaping shall thereafter be maintained for five years to the satisfaction of the Local Planning Authority. Any trees or shrubs which die during this period shall be replaced in the first available planting season, and the areas shown to be so landscaped shall be permanently retained for that purpose. Alterations that affect these approved landscape details must be previously agreed to in writing by the local planning authority;
- 14) Before the beneficial occupation of the development hereby permitted the first and second floor windows fitted in the side elevations of all the proposed dwellings, all of the first floor front elevation windows on the proposed dwellings labelled '6A' and '6B', and the first floor front elevation windows serving an ensuite and bathroom within the proposed dwelling labelled as '6' as shown on the approved drawings, shall be constructed so that no part of the framework less than 1.7m above finished floor level shall be openable. Any part below that level shall be fitted with, and retained in, obscure glazing to a minimum of level 3 on the Pilkington scale. Any film or glazing used to achieve the requisite obscurity level shall be non-perishable and tamper-proof, and shall be replaced immediately in the event that it ceases to result in obscurity to level 3;
- 15) Within 3 months of first occupation, evidence must be submitted to the Council confirming that the development hereby permitted has achieved no less than the CO₂ reductions (ENE1), internal water usage (WAT1) standards equivalent to Code for Sustainable Homes Level 4. (Evidence requirements are detailed in the "Schedule of Evidence Required for Post Construction Stage from ENE1 and WAT1 of the Code for Sustainable Homes Guide). Evidence to demonstrate a 19% reduction compared to 2013 Part L regulations and internal water usage rates of 105L/day must be submitted to the Local Planning Authority, unless otherwise agreed in writing;
- 16) The residential units hereby approved shall not be occupied until they have achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum water consumption (to include a fixed factor of water for outdoor use of 5 litres per person per day or in accordance with the optional requirement defined within Approved Document G of the Building Regulations);
- 17) The residential units hereby approved shall not be occupied until the development has been built in accordance with the requirements of Category 2 of the Building Regulations document titled 'Approved Document M - Access to and use of buildings';

- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no extension or enlargement (including additions to roofs) shall be made to the dwellinghouse(s) hereby permitted, or any detached building erected, without the express permission in writing of the Council;
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting this Order) no windows or other openings (other than those hereby approved) shall be formed in the front elevation wall of the buildings hereby approved.