



Appeal Decision

Site visit made on 15 October 2020

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th January 2021

Appeal Ref: APP/N1730/W/19/3242182

Land to the rear of Ridgeway Parade, The Verne, Award Road, Church Crookham, Fleet GU52 6LP

- 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 Earthstone Developments Limited against the decision of Hart District Council.
 - The application Ref 19/00968/FUL, dated 26 April 2019, was refused by notice dated 14 June 2019.
 - The development proposed is the erection of 9 no. dwellings (comprising 7 no. one bed apartments and 2 no. two bed apartments) together with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Hart Local Plan (Strategy and Sites) 2032 (the 'HLP 2032') was adopted on 30 April 2020. The HLP 2032 supersedes most of the policies from the Hart District Local Plan (Replacement) 1996-2006 (the 'HLP 2006'). However, several policies from the HLP 2006 have been saved and continue to form part of the development plan for Hart District.
3. It is incumbent on me to take into account the most relevant and up to date information in reaching a decision and I have therefore dealt with the appeal on this basis. The main parties have had an opportunity to address this matter as part of the appeal process.

Main Issues

4. The main issues are:
 - the effect of the development upon the character and appearance of the area;
 - the effect of the development upon the living conditions of the neighbouring occupiers of No 94 Ferndale Road in respect of outlook, privacy, daylight and sunlight and Nos 8, 15, 16 and 17 Ridgeway Parade in respect of outlook and privacy; and
 - whether or not the development would function effectively having regard to the provision of refuse and recycling collection.

Reasons

Character and appearance

5. The appeal site is located to the rear of Ridgeway Parade, which is a three-storey mixed use development predominately comprising of ground floor commercial uses with residential use on the upper floors. The site is currently used as a car park with vehicular access provided from Award Road. The topography of Award Road slopes downwards from Ferndale Road towards Ridgeway Parade.
6. It is proposed to erect a flatted development with associated access, undercroft parking and landscaping. The development would provide nine self-contained residential units.
7. The development would have a brick and render exterior under a hipped roof form, which would feature roof terraces to the front and rear roof slopes. The building would have a stepped design with a lower section of built form near to the site boundary with No 94 Ferndale Road.
8. The surrounding area has a suburban residential character. Within the immediate area of the appeal site there are a mix of property types including two-storey detached and semi-detached dwellings and a bungalow at No 94 Ferndale Road. The properties date from different architectural periods, but the common use of traditional materials such as brick, in addition to the predominance of pitched roof forms, results in a design balance and symmetry which contributes positively to the character and appearance of the area.
9. The undeveloped nature of the appeal site provides an important visual break between the large three storey development at Ridgeway Parade and the smaller residential properties located on Ferndale Road.
10. The stepped design of the proposal would respond to the site context and provide a transition between Ridgeway Parade and the bungalow at No 94. In addition, the position of the proposed access road would retain an appropriate visual break between Ridgeway Parade and the proposed development.
11. However, the proposed development would be situated close to the site boundary with No 94, and, in this context, the proposal would have an unduly cramped appearance and the important sense of openness currently provided by the appeal site would be lost.
12. Moreover, despite the ridge height of the proposed development, owing to the site's topography and the provision of undercroft parking and roof level accommodation, which would be provided by large roof terraces and an extensive number of roof lights, when viewed from Award Road and from within the appeal site, the proposed development would appear to have accommodation over four floors, which would be at odds with the surrounding properties.
13. In terms of the proposed design, despite the use of brick and render, the proposed inset roof terraces would have a stark and jarring appearance when viewed in the context of the nearby buildings, which predominately have simple hipped and gable roof forms. Consequently, the roof terraces would appear as prominent and intrusive structures within the local roofscape.

14. Overall, the proposed development would be an incongruous and unduly prominent form of development when viewed from the street, which would cause significant harm to the character and appearance of the area.
15. The appellant has drawn my attention to a recent three storey development, known as 'Dudley Court', which is located on the corner of Award Road and Johnson Way, near to the appeal site. The appellant argues that the development reinforces the mix of different building heights within the local area, which contributes to the area's local distinctiveness.
16. Whilst I recognise that there are a range of building heights within the immediate area, I have considered the appeal proposal on its individual planning merits, and, given the significant harm which I have identified, the development at Dudley Court does not provide a compelling precedent for allowing the appeal.
17. The appellant argues that the appeal site has an unsightly appearance, which detracts from the character and appearance of the area. Even if I were to accept the appellant's position, the harm caused to the character and appearance of the area by the proposed development would be significantly more harmful when compared to the existing unsightly appearance of the appeal site.
18. For the reasons set out above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. As such, the proposal would not accord with Policy NBE9 of the HLP 2032 and Policy GEN1 of the HLP 2006, which require new development to achieve a high standard of design, be in-keeping with the local character and positively contribute to the overall appearance of the local area.
19. Given the above, the proposal would also be inconsistent with paragraph 127(c) of the National Planning Policy Framework (the 'Framework'), which requires development to be sympathetic to the local character. Paragraph 130 of the Framework makes clear that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

Living conditions of neighbouring occupiers

20. The proposal would introduce built development about 5 metres from the side elevation of No 94. Owing to the position of the proposed development to the north of No 94, I am satisfied that the proposal would not result in a material loss of daylight and sunlight for occupiers of No 94 Ferndale Road.
21. In terms of privacy, the side facing elevation of the proposed development would feature two first floor windows, both of which would be obscurely glazed and fixed shut, whilst the roof lights near to the side boundary would predominately provide a skyward outlook from within the proposed flats, as opposed to direct views over the side/rear garden of No 94. On the ground floor, there would be clear glazing, but this would face a proposed boundary fence, the retention of which could be secured by a planning condition. In addition, privacy screening to the side of the first floor balconies and rear roof terrace could be secured by a planning condition, which would prevent harmful overlooking from these areas. For these reasons, the proposal would not result in a loss of privacy for the occupiers of No 94 Ferndale Road.

22. Notwithstanding the above, and, despite the proposed stepped design, due to the close proximity of the proposed development and its height and overall massing, I consider that the proposal would have a significantly enclosing and overbearing impact when viewed from the side garden of the neighbouring property. Given the relatively limited size of the neighbouring rear garden, it is likely that the side garden is used on a regular basis by the occupiers of No 94. Indeed, the appellant explains within their appeal statement that the side garden is used for 'amenity purposes' by the neighbouring occupiers. Consequently, the proposal would cause significant harm to the living conditions of the occupiers of No 94 Ferndale Road.
23. The flank elevation of the proposed development facing Ridgeway Parade would feature high level windows on the ground and first floor with roof lights provided at second floor level. As above, the roof lights would predominately provide a skyward outlook from within the proposed flats, as opposed to direct views over the rearward facing residential properties located within Ridgeway Parade. To prevent overlooking from the bedroom windows, a planning condition could be imposed to control the cill height of the proposed windows. Similarly, a planning condition could be used to secure the provision and retention of privacy screening to the side of the proposed balconies and roof terraces. For these reasons, the proposal would not result in a loss of privacy for the occupiers of Nos 8, 15, 16 and 17 Ridgeway Parade.
24. However, the proposed development would be situated approximately 13.5m from the rear facing elevation of Ridgeway Parade. Despite the hipped roof form, given the overall bulk and height of the proposal and its close proximity to Ridgeway Parade, the proposal would cause a significant overbearing impact when viewed from the rear facing windows of the neighbouring properties. The harmful enclosing impact would be particularly severe from the raised balcony/terraced areas to the rear of Ridgeway Parade, which would be closer to the proposed development than the rear facing windows.
25. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the living conditions of the occupiers of No 94 Ferndale Road and Nos 8, 15, 16 and 17 Ridgeway Parade in respect of outlook.
26. In respect of this main issue, the Council's cite conflict with Policy GEN1 of the HLP 2006. However, Criterion (iii) of the policy states proposals will be permitted where they cause no material loss of amenity to adjoining residential uses, through loss of privacy and overlooking. As set out above, I have found that the proposal would not result in a loss of privacy for the occupiers of the neighbouring properties. Therefore, in this context, there would not be conflict with Policy GEN1 of the HLP 2006.
27. Nevertheless, the proposal would be inconsistent with the requirements of paragraph 127(f) of the Framework, which requires that development does not have an adverse impact on the amenities of existing and future occupants. This is a material consideration which indicates that planning permission should be refused.

Provision of refuse and recycling collection

28. The Council have raised several concerns relating to the provision of refuse and recycling collection for the proposed development. They contend that the

- refuse collection vehicle would be unable to physically empty the communal waste bins due to the gradient of the proposed access road. In addition, they state that the development fails to provide adequate glass recycling facilities.
29. The appellant refers to the 'HDC Waste Standards' and argues that the proposal would provide an appropriate amount of waste container provision in accordance with adopted requirements. However, this document has not been provided and it is unclear whether or not it forms part of the development plan.
30. In addition, I note that two of the submitted drawings¹ show differing bin storage arrangements, but both are listed as refused plans by the appellant, which creates further uncertainty on this matter.
31. The appellant argues that the precise matters related to refuse and recycling collection could be secured by a planning condition. However, this approach may result in fundamental changes to the proposed development, which could include changes to the external appearance of the building, the internal layout of the undercroft car park and the gradient of the access road into the site. To this regard, the Planning Practice Guidance (the 'PPG') explains that conditions should not be used "to modify the development in a way that makes it substantially different from that set out in the application"². Consequently, the imposition of such a condition would not meet the tests as laid out in paragraph 55 of the Framework.
32. Alternatively, the appellant suggests that refuse and recycling collection services could be provided by a private management company. Whilst this may be the case, no substantive evidence has been put forward to demonstrate how such a service would operate and whether or not it would be provided for the lifetime of the development.
33. For these reasons, I am unable to conclude that the proposal would function effectively having regard to the provision of refuse and recycling collection. Consequently, I cannot conclude that the proposal would accord with Policy INF3 of the HLP 2032 which states that development proposals should provide appropriate waste and recycling storage areas and access collection points for refuse vehicles. Moreover, I cannot conclude that the proposal would accord with Criterion (vii) of Policy GEN1 of the HLP 2006 which states that proposals will be permitted where they have adequate arrangements for servicing.
34. Notwithstanding the above, even if I were to accept the appellant's position and find that the proposed development would function effectively having regard to the provision of refuse and recycling collection, this would be a matter of neutral consequence, which would not overcome or outweigh the harm I have identified above in respect of the other main issues.

Other Considerations

35. The proposed development would provide nine dwellings that would be of a mix of sizes, including smaller homes, which would make a positive contribution to the Council's housing land supply which weighs in favour of the proposal. Furthermore, I note that the proposal would lead to the development of under-utilised brownfield land as distinct from greenfield land. However, none of

¹ Drg No: 013354 07c shows an internal waste/recycling area and a separate storage area next to parking space No 3. Whereas drg No: 013354 02F shows a smaller internal waste/recycling area and no storage area.

² PPG Paragraph: 012 Reference ID: 21a-012-20140306

these matters would overcome the very weighty conflict with the identified development plan policies as outlined in the main issues above.

36. The appeal site is within 5km of the Bourley and Long Valley Site of Special Scientific Interest, which forms part of the Thames Basin Heaths Special Protection Area. Had the proposal been acceptable in planning terms, it would have been necessary for me to undertake an Appropriate Assessment as the competent authority. Nevertheless, as I have concluded that the proposed development would conflict with other development plan policies, and, given my decision to dismiss this appeal, it has not been necessary for me to consider this matter any further.

Conclusion

37. I have been unable to conclude that the development would function effectively having regard to the provision of refuse and recycling collection. In addition, I have found that the proposal would cause significant harm to the character and appearance of the area and the living conditions of neighbouring occupiers in respect of outlook. Therefore, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR