



Appeal Decision

Site visit made on 26 November 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 15 January 2021

Appeal Ref: APP/Y3615/W/20/3257770

Land to the rear and side of 85 & 87, Applegarth Avenue, Guildford, GU2 8LX

- 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 Antony Tilney (Tilney Property Ltd) against the decision of Guildford Borough Council.
 - The application Ref 20/P/00826, dated 15 May 2020, was refused by notice dated 7 July 2020
 - The development proposed is the erection of a new 3 bedroom house with parking.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area;
 - the living conditions of the occupants of No 89 Applegarth Avenue, with particular regard to loss of privacy and loss of outlook;
 - the Thames Basin Heaths Special Protection Area.

Reasons

3. No 87 Applegarth Avenue is a semi-detached house on a sizable corner plot in a large residential estate. The appeal site includes much of the rear garden of No 87 and part of the garden of neighbouring No 85. An earlier extension to No 85 has been recently further extended and converted to a new dwelling (No 85A).
4. The site has a planning history. A previous proposal¹ for 3 x 4-bedroom houses was dismissed at appeal² in 2019. A subsequent proposal³ for 2 x 4-bedroom houses was refused, but a second application for a single detached house behind No 85 was approved⁴. I observed that this was being constructed at the time of my site visit (No 85B). Although only for a single dwelling, the current proposal would result in 2 detached houses in total on the wider site, as per the

¹ 17/P/02617 (February 2018)

² APP/Y3615/W/18/3199647 (24 January 2019)

³ 19/P/00259 (April 2019)

⁴ 19/P/02206 (April 2020)

most recent refused application, but these would be significantly smaller than the earlier design.

Character and appearance of the area

5. The layout of the surrounding estate is of highly regular rhythm and grain, with strong building lines. Houses in the local area are prevailingly semi-detached with attached single-storey garages. The area is characterised by communal green spaces and large back gardens, which can be glimpsed between the houses. This layout has created a spacious, green and open appearance, which I consider to be a positive characteristic of the estate.
6. The proposal would introduce development behind the building lines, disrupting the regular rhythm of housing. The resulting plot sizes are small relative to those on the estate, to the extent that the development would appear cramped in comparison. The gap between the houses would be lost, reducing the sense of openness when viewed from the public domain.
7. While there is no suggestion that the proposed garden or the truncated garden of No 87 are inadequate in size, they would be notably smaller than those typically found in the area, which contributes to the overcrowded character and appearance of the development.
8. For these reasons, I find that the proposal would appear cramped and inconsistent with the prevailing character of the estate, and I consider that this is to a harmful extent.
9. I noted that several of the houses on Applegarth Avenue had replaced their front gardens with parking areas and in this respect the proposal is not out of character. However, the continuation of hardstanding between the houses to form an access drive would result in an extensive area of hardstanding to the side and rear, exacerbated by the provision of several parking spaces for earlier developments. This is not typical of the estate and I consider the loss of greenery and extent of hardstanding detrimental to the character and appearance of the area.
10. The extent of landscaping has increased since the previous appeal, to include a small front garden, larger back garden and landscaping around the car parking area. The proposed building is reduced in scale from the refused schemes and would complement the form of the host properties. However, while I consider these changes to be an improvement, I do not find that they would overcome the overall harm to the character and appearance of the area identified above.
11. I therefore find that the proposal is in conflict with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites (April 2019), which requires that new development reflects local character, responding and reinforcing distinct patterns of development, including the landscape setting. It also conflicts with Local Plan Policies G5 and H4 of the saved Guildford Borough Local Plan (2003)⁵ (LP), which require that new development respects established street patterns, plot sizes, building lines and the relationship with other buildings.

⁵ Saved by CLG Direction on 24 September 2007

Living conditions at No 89 Applegarth Avenue

12. I observed that the rear garden of No 89 Applegarth Avenue was the occupants' main amenity space and included a patio with seating to the rear of the house, a vegetable plot and a pond. The garden also contains a single storey ancillary building of substantial construction that appeared to be used as an office, adjacent to the boundary with No 87.
13. I consider that occupants of the proposed house would easily be able to see the rear patio and garden area behind No 89 from the first-floor bedroom windows, at a short distance. On this basis, I find that there would be a significant and harmful loss of privacy to the occupants of the rear garden of No 89. An equivalent loss of privacy for the occupants at No 87 was not identified by the Council because of the greater distance between the proposed house and rear garden boundary, and I have no reason to disagree with this conclusion.
14. The proposed house would be within 3 metres of the boundary fence of No 89. Based on observations at the site visit, I conclude that the height and depth of the new house would significantly reduce the outlook from a large part of the garden, including the patio area to the rear of the house. I consider that this would be to an overbearing degree.
15. I note that this proposal is nearly 2 metres further back within the appeal site and approximately 3 metres further from the boundary with No 89 than the previous proposal, in addition to being a less bulky structure. However, I find that these changes are insufficient to overcome the harm to privacy and outlook.
16. The proposal is therefore in conflict with Policies G1(3) and H4 of the LP, which require that the amenities enjoyed by occupants of buildings are protected.

Thames Basin Heath Special Protection Area (TBH SPA)

17. The site is located within the 5 km 'zone of influence' for the TBH SPA. Natural England have identified that additional housing development in the zone is likely to have a significant effect, alone or in combination, on the integrity of the SPA. For this reason, measures must be taken to ensure that the integrity of the SPA is protected. The Council has adopted an Avoidance Strategy (2017), which requires a contribution towards 'Suitable Accessible Natural Greenspace' and 'Strategic Access Management and Monitoring' funds.
18. The appellant has indicated an intention to work with the Council to complete a Section 106 agreement to secure the contributions, but this has not yet been submitted. Accordingly, there is no mechanism before me to ensure the necessary avoidance measures would be delivered. In the absence of these, I cannot be satisfied that the development would not adversely affect the integrity of the SPA.
19. Saved policies NE1 and NE4 of the LP state that planning permission will not be granted for proposals which are likely to have an adverse effect on a SPA or cause harm to a species or its habitat, and the proposal is therefore in conflict with these. It is also inconsistent with Policy NRM6 of the South East Plan – Regional Spatial Strategy (2009), which requires demonstration that adequate measures are in place to avoid or mitigate any potential adverse effects.

Planning balance and conclusion

20. There would be benefits from an additional dwelling in an area with good transport links and from contribution to local services, including during the construction phase. However, these benefits are limited by the small scale of the development.
21. I note reference in the appellant's statement to the desirability of redeveloping land. The definition of previously developed land in the Framework (2019) specifically excludes land in built-up areas such as residential gardens, which would include the appeal site.
22. I have identified harm to the character and appearance of the area, the living conditions of neighbouring occupiers and the TBH SPA, which I find to be significant. This harm is not outweighed by the minor benefits of the scheme. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

B Davies

INSPECTOR